Acta Sanctae Sedis

Acts of the Holy See

Holy See; Vatican

An English translation of the Latin edition
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[*Latin ed. p. 1*]

ACTS OF THE HOLY SEE, CONCISELY COMPILED AND ILLUSTRATED THROUGH THE STUDY AND CARE OF JOSEPH PENNACCHI AND VICTOR PIZZESI, OR, Acts, legal and more solemn, emanating directly from the Supreme Roman Pontiff: these acts include those which can be made public under the law, whether they are Decrees, Instructions, Responses, or other similar matters; especially, expositions and resolutions of cases from various Sacred Congregations of Cardinals, carefully compiled to contribute to a precise understanding and observance of ecclesiastical law: and finally, other legal matters, by which those things which may present difficulty in the aforementioned acts are suitably illuminated, or which further contribute to the knowledge of existing law: for the benefit of those who diligently study the laws of the Church, and who labor diligently in the governance of the Christian flock, or in cultivating the vineyard of the Lord.

ROME, PRINTED BY THE POLYGLOT PRESS AND THE OFFICE OF THE SACRED CONGREGATION FOR THE PROPAGATION OF THE FAITH, 1879.

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[*Latin ed. p. 2*]

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[*Latin ed. p. 3*]

3 LETTER OF HIS HOLINESS, POPE LEO XIII, TO THE ARCHBISHOPS AND BISHOPS OF THE ECCLESIASTICAL PROVINCES OF TURIN, VERCELLI, AND GENOA.

Venerable Brothers:

We have been greatly pleased by your pastoral solicitude, Venerable Brothers, in diligently defending the Christian marriage, which is now threatened by a new affront through the promulgation of a penal interdict against the religious celebration thereof.

We remember well how you yourselves, and generally the entire Italian episcopate, earnestly protested in the past against proposals of a similar nature, which sought to wound the dignity and liberty of the Christian

marriage. But now, with lamentable efforts and repeated pleas, you...

[*Latin ed. p. 4*]

4. With renewed efforts to avert this new calamity from the Catholic Italy, you reiterated your remonstrances and authoritative appeals: and although these have, until now, had no effect other than that of a barren mention, being subsequently condemned to the archives without being read or examined; nevertheless, your work is not for this reason less worthy of being commended by Us, for having suitably proclaimed the Catholic truth before even those who, having resolved to follow the path of error at all costs, reject the friendly voice that calls them back to the truth. Moreover, Venerable Brothers, you rightly lamented how such a reform is detrimental to religion and morality, which, after having removed all legal value from the Christian marriage, hinders its celebration and subjects it to the requirements of a civil procedure, with penal sanctions. The fundamental principles of Christianity, and indeed the elementary notions of natural law, would have to be rejected in order to assert that marriage is a creation of the State, and nothing more than a vulgar contract and a social consortium, entirely of civil law. The conjugal union is not a work or invention of man: God Himself, the supreme Creator of nature, from the very beginning, through this union, ordained both the propagation of the human race and the constitution of the family; [and in the law of grace, for the dignity of the sacrament.

[*Latin ed. p. 5*]

Letters 5 concerning the nature of humankind and the institution of the family: and in the law of grace, She willed to ennoble it still more by imprinting upon it the divine seal of the Sacrament. Therefore, for the Christian, marriage, insofar as it concerns the essence and sanctity of the bond, is an act essentially sacred and religious, the regulation of which naturally belongs to the religious authority, not by delegation of the State, or by the consent of Princes, but by the mandate of the divine Founder of Christianity and Author of the Sacraments. You well know, Venerable Brothers, how, to justify the intrusions of civil power into the Christian legislation of marriage, the concept of the separation of the contract from the Sacrament is brought forward, as a product of modern progress; so that, considering it solely as a contract, it is presumed to be entirely subject to the authority of the State, leaving to the Church only the function of a ritual blessing. To support this theory, the authority of foreign codes is invoked, and the fact that in some Catholic nation, marriage is today governed by a completely civil and secular legislation. But whatever un-Catholic jurists or those devoted to the autocracy of the State may say, it is certain that this doctrine can never truly affect the conscience of those who are sincerely devout, for it makes Christian marriage, with regard to the essence and sanctity of

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the bond, an act essentially sacred and religious, the regulation of which naturally belongs to the religious authority, not by delegation of the State, or by the consent of Princes, but by the mandate of the divine Founder of Christianity and Author of the Sacraments. You certainly do not fail to see, Venerable Brothers, how, to justify the intrusion of civil power into the Christian legislation of marriage, the concept of the separation of the contract from the Sacrament is brought forward, as a product of modern progress, so that, considering it solely as a contract, it is presumed to be entirely subject to the authority of the State, leaving to the Church only the function of a ritual blessing. To give force to this theory, the authority of foreign codes is also available, and the fact that in some Catholic nation, marriage is entirely governed by a civil and secular law. Nevertheless, whatever un-Catholic jurists, or those devoted to the autocracy of the State, may say, it is certain that this doctrine can never truly affect the conscience of those who are sincerely devout, because it is based on a dogmatic error, repeatedly condemned by the Church, as it is contrary to the foundation of Christian legislation on marriage.

[*Latin ed. p. 6*]

6. Catholics cannot accept this doctrine as the basis of Christian legislation on marriage, for the reason that it is founded upon a dogmatic error repeatedly condemned by the Church, namely, that of reducing the Sacrament to an external ceremony and to the condition of a mere rite; a doctrine which subverts the essential concept of Christian marriage, in which the conjugal bond, sanctified by religion, becomes one thing with the Sacrament, and constitutes with it a single subject and a single reality. For to profane the marriage bond within a Christian society is the same as to degrade it, to inflict a religious injury upon the faith of the subjects, and to weave treacherous snares for their consciences, since the mere legality of the civil act is neither sufficient, nor can it be sufficient, to render their unions honorable and to make their families happy. Nor does it benefit the example of those Catholic nations, already deeply troubled by fierce struggles and social upheavals, which were forced to undergo such a reform, either inspired by the doctrines and works of heretics, or imposed by the power of rulers; which reform, moreover, besides bearing abundant fruits of bitterness, has never enjoyed peaceful possession, but has been constantly reprobated by the conscience of honest Catholics, and also by the legitimate magisterium of the Church.

[*Latin ed. p. 7*]

Here it is fitting to note how undeservedly the Church is blamed for seeking to exert an intrusive influence in matters of marriage law, to the detriment, as they say, of the prerogatives of the State and of political authority. The Church intervenes only to protect that which is under the dominion of

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divine law, and that which was irrevocably entrusted to her, namely, the sanctity of the bond and the religious aspects proper to it. No one, however, contends that the State has the right to order marriage temporally for the common good, and to regulate its civil effects according to the norms of justice. But it is different when the State, entering into the sanctuary of religion and conscience, makes itself the arbiter and reformer of the intimate aspects of a most august bond, which God Himself ordained; and which the powers of this world, just as they cannot bind, so also cannot dissolve or ever change. Therefore, Venerable Brothers, you understand well what judgment can be made of a Catholic State that, setting aside the holy principles and wise disciplines of Christian law concerning marriage, undertakes the sad task of creating its own conjugal morality, entirely of a human nature, under merely legal forms and guarantees; and then, to the extent that it can, imposes it upon its subjects.

[*Latin ed. p. 8*]

8. The laws usurp the place of the consciences of the subjects, substituting themselves for religious and sacramental considerations, without which the marriage between Christians cannot be either lawful, honorable, or stable. We confess to you, Venerable Brothers, that We are deeply saddened to see that this is the fate prepared by the present rulers for Catholic Italy, and that in this very metropolis of Catholicism, this unjust and disastrous plan is now being hatched. Indeed, when such a plan is considered in itself and in its consequences, it becomes abundantly clear that it is both unjust and disastrous, both to religion and the priesthood, and to the freedom of consciences and public morality. For the State, boldly invading the realm of religion, and dealing with matters that are not its own, considers the Sacrament only in order to bind its exercise, and to subject it to the authority of the Code and the demands of legal formalism. Moreover, it derives a title of guilt from the Sacrament itself, in order to punish the sacred minister and the contracting parties with monetary and afflictive penalties; it considers the sacramental union, even though blessed by God, to be illegitimate and of no value, unless it is preceded by a civil formality; it unjustly attributes blame to the Church and the clergy for what is a natural consequence of the institution and the religious convictions of the Italian people.

[*Latin ed. p. 9*]

9. The infrequency, that is, of civil ceremonies, and the disregard for the legal procedure. And to say nothing more, it prevents the sacred Minister, even when duty compels him, from promptly and suitably providing, in critical moments, through the sacramental celebration, for the peace of troubled consciences, and for the peace and honor of families that are in distress. — And with regard to the subjects, it unjustly binds their faith

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and religious freedom by prohibiting them from receiving the Sacrament unless they are dependent on the State; it imposes upon their consciences, with regard to marital union and the creation of a family, only the morality of the Code, which, before God and religion, does not justify them; and at the same time, it leaves the wicked concubinage free, so that it may freely spread and dominate in the midst of civil society (as the statistics demonstrate), eluding Christian duties and even the prescriptions of the Code itself; and what is extremely dangerous, it puts a legal weapon into the hands of deceitful men, to betray the consciences of pious young women and honest parents, by refusing, after the civil act, to perform the religious celebration. From these things, Venerable Brothers, arises the natural doubt, whether the present reform against religious marriage is dictated, more than by sentiments of order and social rectitude, by the intention...

[*Latin ed. p. 10*]

10 These LETTERS portend new tribulations for the Church and the Clergy, and an increase in incentives for perversion among the Italian people. And this doubt is, alas, confirmed, if one observes how this reform strikes the sacred Minister with greater severity than the primary transgressors, while granting these latter an escape, within a certain time, from penal action, but not so the sacred Minister; and if, moreover, one considers the ignoble comments and the irreverent declamations, by which this very reform was sought to be presented before the public, causing offense and sorrow to every Catholic heart. For it was dared to say, without ambiguity: "That social morality is not religious morality, and the civil legislator is not obligated to act as a professor of moral discipline; that the State does not consider Sacraments, nor does it hesitate, in order to uphold its institutions, to punish even a Sacrament; that the present reform is a reprisal against the Church, because it condemns as unjust the civil law which denies the religious character of the Sacrament; that the Sacrament of marriage is a simulated union, a concubinage that offends social law." You well see, O Venerable Brothers, from such manifest signs, by what principles this proposed reform is inspired, and to what end it intends.

[*Latin ed. p. 11*]

Let us, therefore, with all our heart, pray to the Most High that He may deign to grant us that we may not have to witness the sowing of this new seed in the vineyard of the Gospel, which can only bring pernicious fruits to the faith and to both domestic and public morals, and which will also be a source of new offenses and violence against the sacred ministers.

At the same time, let us not cease, Venerable Brothers, to instruct the faithful with suitable exhortations regarding the great Catholic truth, that is, that the origin and sanctification of marriage are from God, and that outside the forms established by God and by the Church, there is neither

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honesty nor sanctity of bond, nor the grace of the Sacrament.

Furthermore, to refute the specious accusations that are now being launched against the Church and the clergy, making them systematically appear hostile to those regulations that govern marriage in its civil aspects, we have nothing to do but to recall the wise instructions with which the Church itself, while safeguarding the integrity of the dogma and the dignity of the Sacrament, allows the faithful, before such legislation, to enjoy the social advantages that derive from them. These instructions are well known to you, Venerable Brothers, from many acts of the Apostolic See, and especially from the Brief of Benedict XIV to the Bishops of Holland.

[*Latin ed. p. 12*]

Letters were issued on September 17, 1746; by the Brief of Pope Pius VI to the Bishop of Luçon on May 28, 1793; by the Encyclical of Pope Pius VII to the French Episcopate on February 17, 1809; and in our own times, by the general Instruction of the Holy Penitentiary to the Bishops of Italy on January 15, 1866 (1). Whatever We have explained to you, Venerable Brothers, certainly suffices to enlighten minds and to remove the foreseen danger. If, notwithstanding, the wickedness of men should compel Us to see the Sacrament increasingly compromised by these, or other reforms, We and you would certainly be deeply grieved; but We know how to draw from the unwavering example of the Apostles and Our Predecessors the norms to protect, according to the divine mandate, the holy cause of Christian marriage, and the spiritual well-being of the faithful. As a pledge of Our particular benevolence to you, Venerable Brothers, to the clergy and people entrusted to your care, We impart with heartfelt effusion the Apostolic Blessing. Rome, from the Vatican, on the day of Pentecost, June 1, 1879.

(1) This Instruction is mentioned in Volume I, page 508 of these epistles.

[*Latin ed. p. 13*]

ADDRESS OF OUR MOST HOLY LORD LEO XIII TO THE REPRESENTATIVES OF CATHOLIC WEEKLY NEWSPAPERS

We are today filled with great joy and the pleasantness of spirit, seeing your presence, most beloved sons, who, distinguished men, servants of Our House, having come together from all parts of the land, in obedience to our wishes and desires, to publicly testify to Us, in accordance with the year of Our Pontificate, of the faith and love which you hold in your hearts, both for yourselves and for all the writers of Catholic weekly newspapers. Indeed, what you have just solemnly professed with words and deeds—devotion of spirit, a most ardent desire for the Chair of Peter, zealous study of religion, and generous virtue, with which you have undertaken to defend the rights of truth and justice—you present to Us as a most excellent army of soldiers, experienced in war, prepared for battle, and ready to rush to the command

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and guidance of the leader, even among the most formidable enemies, and to pour out their lives. And we are even more pleased, because we feel that we need such assistance and such valiant defenders of this kind. For, having understood the immense utility and advantage that could be gained for the accomplishment of their designs from the daily publication of newspapers, which would gradually infect the minds of those who read them with the poison of errors, and corrupt hearts with the incitement of wicked desires and the allurements of the senses, men eager for new things have diligently sought to spread a vast multitude of such newspapers. — And all these things have so happily unfolded, according to their wishes, that from the truth:

[*Latin ed. p. 14*]

14. The discourse does not seem to deviate greatly from those who reflect on the ruin and most miserable condition of affairs, to which we are subject, and who, in part, attribute this to the vice of ephemeral writings. Therefore, since the necessity of publishing such writings has now, according to a custom that has prevailed universally, been established, Catholic writers must strive above all to direct them towards the model of civil society and the protection of the Church, which are exploited by the enemies for the ruin of both. Although Catholic writers cannot employ the same arts and deceptions that their adversaries frequently use, they can easily equal them in the variety and elegance of their writing, and in the diligent narration of recent events; indeed, they can surpass them through knowledge of useful matters, and above all, through truth, which the mind naturally desires, and which possesses such power, excellence, and beauty that, when it appears to the mind, it easily elicits assent, even from those who are unwilling. — For the desired outcome, a grave and temperate manner of speaking is of the greatest importance, which, namely, should neither offend the minds of the readers with excessive or untimely harshness, nor betray the common good by pursuing particular interests or private advantages. — Above all, we understand that you must take care that, as the Apostle warns, you speak the same thing, and that there are no schisms among you; but that you be perfect in the same mind and in the same judgment (1), adhering with a firm mind to the doctrines and tenets of the Catholic Church. The necessity of this concord appears even greater, because among those who are devoted to the Catholic faith, there are not lacking those who, even publicly, undertake to resolve and define controversies of the gravest importance, even concerning the condition of the Apostolic See, according to their own judgment, and who seem to hold different opinions than those that the dignity and freedom of the Roman Pontiff allow. — Therefore, it is of the utmost importance that no opportunity for error be left, to once again impress upon the minds of Catholics the supreme authority of the Church, which was divinely conferred upon Peter and his Successors, to

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govern the entire family of Christ in (1) 1 Corinthians 1:10.

[*Latin ed. p. 15*]

If this discourse were to contain faith and to lead to the eternal blessedness of the heavenly kingdom, then, by the most full authority granted by the divine institution of Christ Himself, I would vindicate the fullest liberty for Myself: and it has been ordained by the most provident counsel of God that, after the perilous trials of the early age, the civil principate of the Roman Church was added, and that, over a long course of centuries, amidst countless vicissitudes and the ruin of kingdoms, it would be preserved. — And by this most serious reason, not moved by the ambition of a kingdom, as We have often declared, nor by the desire to dominate, the Roman Pontiffs, whenever they have perceived this civil principate to be disturbed and violated, have considered it their duty to safeguard and defend, as far as their power allows, the sacred rights of the Roman Church: and We ourselves, following the example of Our Predecessors, have not neglected, nor shall We ever neglect, to assert and vindicate these same rights. Therefore, you, Our most beloved sons, who show yourselves most devoted to the Chair of Peter and most eager to defend the cause of the Apostolic See, let not your voices cease, united and joyful, and in your writings, let not your zeal fail to defend the necessity of a free exercise of spiritual power; and let history be your guide, to show that this authority was established with such legitimate right and has endured so long, that no other in human affairs can be claimed to be greater or equal. If anyone, in order to gain the envy of many, should assert that the civil principate of the Roman Church cannot be separated from the fortune of Italy and the prosperity of kingdoms, then object that, if the Roman Pontiffs wield power, nothing is to be feared for the safety and well-being of the people; nor, if the Catholic Church enjoys liberty. For the Church does not stir up seditious factions, but rather restrains and harmonizes them; it does not foster disturbances or hatred, but restrains them with charity; it does not inflame the lust for domination or pride, but rather, by the severity of supreme judgment and the example of the Heavenly King, it moderates; it does not violate the laws of civil society, but strengthens them; it does not seek dominion over kingdoms, but faithfully fulfills the duty divinely entrusted to it by the office of the Apostolic ministry, preserving those principles intact.

[*Latin ed. p. 16*]

16. ADDRESSES, upon which all order rests, and from which peace, virtue, and all civil culture flourish. As for the Italians, the monuments of past times speak for themselves. The Pastors of the Roman Church are rightly esteemed for their concern for this blessed City and for the affairs of the Italians; and they also testify that the noble and supreme splendor with

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which Rome shines forth originates from the Catholic religion: for Rome, through the sacred See of St. Peter, has become the head of the world, *as St. Leo the Great said, presiding more widely over divine religion than over earthly dominion* (1). Furthermore, it is known to all that the Roman Pontiffs have always devoted great care to the fostering of letters and sciences; that they have received the protection of the liberal arts; and that they have governed the peoples subject to them with a just and paternal authority. Finally, let it be said that the public affairs of Italy cannot flourish, nor can they enjoy lasting tranquility, unless the dignity of the Roman See and the freedom of the Supreme Pontiff are respected, as all laws demand. Strive to spread these and similar things, which promote the good of religious and civil society, among the people through your publications, and to share matters of reason: let there be one love, one mind, to defend the cause of the Church and to uphold the rights of the Roman Pontificate. For those who fight for justice, for religion, and for the freedom of the Church, a great harvest of troubles and labors remains; be careful not to lose heart, for it is the duty of a Christian to act and suffer bravely. God will help those who contend rightly, bringing abundant safeguards of heavenly gifts. And so that these may come to you more abundantly each day, we impart, with the deepest affection of our heart, our Apostolic Blessing, a testament of our benevolence towards you, to all and each of the writers of Catholic publications. *Benedictionem etc.* (1) *Serm. I in Nat. ss. Petri et Pauli.*

[*Latin ed. p. 17*]

17 FROM THE HOLY CONGREGATION FOR BISHOPS, CONCERNING ELECTIONS AND REMOVALS. On June 15, 1878, a summary of events. The members of the Brotherhood of the Most Blessed Virgin, dedicated to charity, of the Diocese of M..., convened on July 16 of the year 1876, as was customary, in order to hold elections for new officers. However, four of those present were deprived of both active and passive votes for that occasion by the Governor, because they had not been present at the procession on the feast day of the Most Blessed Virgin, the patroness of the brotherhood. The statutes, confirmed by the Bishop on July 9, 1789, stipulate that members who, without just cause, abstain from said procession shall be deprived of both active and passive votes for a period of one year. In this situation, after the election was held, Francis B... received the most votes, and the Governor resigned. Furthermore, four curators of the brotherhood were elected. Four brothers, who had been deprived of both votes, and to whom another member joined, appealed to the Episcopal Curia and revealed to the Bishop certain abuses that had been committed within the brotherhood, demanding that new members be admitted without scrutiny, and that the election of the officers be validated, and that their rights be restored. Moved by these complaints, the Bishop wrote a letter to the Governor of the brotherhood, instructing him to

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hear the brothers' accounts regarding these matters, and to transmit the statutes. In his response, the Bishop wrote that he had discovered further matters which brought great dishonor upon those who were accused, and therefore, he considered it his duty to appoint new Governors, new officers, and to admit new members without scrutiny, which he indeed accomplished by a decree of September 25, 1876, of the following tenor. "Having considered the complaints and allegations made from various sources..."

[*Latin ed. p. 18*]

18. CONCERNING ELECTION AND REMOVAL: After conducting investigations, some of which require deeper consideration and serious examination, so that the Congregation may not lack officials to perform their duties, namely a Governor, Secretary, and Procurators, taking into account all circumstances present in the case, without any prejudice to the parties, we elect and appoint, provisionally, with all rights, benefits, and with all appropriate and necessary powers, N. N., as if he had been received and enrolled in the ordinary manner. The officials elected on July 16, having been struck by this decree, appealed to the Holy Congregation in the name of the Council, requesting that the Bishop's decree be declared invalid. When questioned about these matters, the Bishop reported that the confraternity of faithful was being governed and administered, as if by hereditary right, by the parents and relatives of Francis B, who secretly managed its affairs. Furthermore, he recounted more details, from which it appeared that the family of the elected Governor had, for many years, been disposing of the confraternity's assets in such a way as to acquire considerable sums for themselves and their relatives, whether through the leasing of properties, the disbursement of funds, and in various other transactions, which could easily be exploited by administrators of bad conscience to their own advantage, to the serious detriment of the pious cause. The Bishop concluded that the aforementioned decree had been received favorably in his diocese; indeed, congratulations had been offered to him by all classes of citizens, and therefore, the request of the appellants should be rejected, especially since the Bishop, by approving the confraternity's statutes, had reserved the right for himself and his successors to regulate, increase, diminish, or even abolish them. Finally, he observed that the appellants had not followed the mandate to appeal to the Holy See, as stipulated by the Bishop's decree. With these matters in mind, the question to be resolved was referred to the plenary assemblies of the Holy Congregation, and after elections were held, the elected officials debated the matter under the formula of doubt presented at the end of this document. DEFENSE OF THE OFFICIALS. He who acted on behalf of the confraternity presented his defense, dividing his argument into several parts. In the first place, he sought to

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defend the legitimacy of the election of July 16, 1876.

[*Latin ed. p. 19*]

ON ELECTION AND REMOVAL: 19. The Advocate maintained that it was undoubtedly the law that the election of officials belonged freely to the confreres, as decided by Durand, decree 29, no. 35; Monacell. form. legal, pract., title 6, no. 24, vol. 1, and that in order for an election to be considered entirely free and legitimate, it was required that: 1. A notification precede; 2. That the confreres, according to custom, be assembled to carry out the election by secret ballot, as stated by De Luca, Miscel. disc. 4, no. 25; 3. That the majority of votes be cast for those elected, with regard only to those present, for the majority part of the university, college, or chapter is constituted by those present, without regard to the absent, as stated by Monacell. op. cit., p. 1, title 6, in the notes to form 11, no. 22; Rota cor. Baratto, decree 573, no. 22, for all power remains with those who are present, as stated by Antonelli de Loco, Legal. Lib. 2, cap. 5 and 6. Since all of these things had been strictly observed in the election of July 16, there was no reason to doubt its legitimacy. Furthermore, the election acquired greater validity because it was in the greatest conformity with the statutes and practice of the Confraternity. Indeed, the statutes prescribe that, for the election of the governor, the officials, assembled in a private meeting, should choose three confreres, and then propose them to all, so that one of these three may be chosen as governor. This form, introduced in the year 1788 and continuously used, had also been observed in the election of July 16, as evidenced by the books of consultation of the Confraternity, and by the testimony of the ecclesiastical delegate, who, under oath, testified that "the election of the officials had been legitimately carried out, and in accordance with the procedures and statutes of the Confraternity." Turning to the second part of his defense, the Advocate argued that the Decree of the Bishop of September 25, 1876, was invalid. He pointed out that the Council of Trent, Cap. 8 and 9, Session 22, De Ref. Episcopis, granted no other authority to the Bishops in the Confraternities than to visit them and to demand, each year, a rendering of accounts regarding the administration of goods; and therefore, the Bishop could neither interfere in the administration, according to the resolution of the Sacred Congregation of Bishops and Regular Canons in the case of Castellaneta, November 11, 1604; nor impede...

[*Latin ed. p. 20*]

20. CONCERNING THE ELECTION AND REMOVAL of members, Congregations are not to incur extraordinary expenses exceeding the sum of twenty scudi without their permission. C.C. Urhinaten. March 16, 1663, nor are they to be prohibited or restricted in their exercises by the Sacred Congregations and the Most Holy Roman Pontiff. Ferrarien. January 12,

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1582; nor are they to be prohibited from assembling wherever and whenever it pleases them. S. C. EE. et R R. Nullius Putiniani, August 21, 1584. Therefore, since it is clearly established by the Council of Trent and by the declarations of the Sacred Congregations that Bishops can do nothing more with regard to Congregations than to visit them and demand an accounting of the administration of their goods, it follows that they do not have the power to remove elected members and appoint new leaders; consequently, the decree of September 25 was null. Furthermore, the defender added, it cannot be the case that a Bishop, either personally or through his delegates, can assist in the congregations of the Sodalitas, or in the election of officials, because he cannot, however, introduce innovations contrary to the statutes, customs, or practices. S. C. EE. et R R. in Ragusina, April 1, 1596, and in Cosentina, July 14, 1600; and to abolish elected leaders, to create others, to enroll members without the consent of the brethren, is the same as introducing innovations contrary to the statutes and the laudable customs of the congregation. And if the Bishop should abstain even more in this case, because the sodality was established by a Brief of Pope Clement VIII, confirmed by Paul V. He also observed from chapter Concertationis De appell, that a period of ten days is granted from the moment notice is received to file an appeal, and that if these days pass without action, the right to appeal is completely closed. Indeed, in the case of the five members who appealed, twenty days had already elapsed; therefore, the Bishop could not consider their appeal. Moreover, there was a fault on the part of the Bishop in the way he proceeded, since, without any prior warnings, he dismissed the elected officials and, without a meeting of the congregation, added new members. From these things, it was asserted with the clarity of the midday sun that the Bishop's decree was null, as was resolved by the Sacred Council in one Bal-.

[*Latin ed. p. 21*]

ELECTION AND REMOVAL 21. New Regulations. Electoral Meeting of the Brothers, September 16, 1709, in which, concerning the second point under discussion – whether the brothers previously removed from office by the Bishop should be reinstated, and whether new brothers elected by the Bishop should be dismissed – the response was: "Affirmative." Furthermore, the Defender argued that the officials of the sodality could not be removed by the Bishop without a serious reason, citing Monacellius (Formulæ legales, vol. 1, title 11, form 14, no. 9), because such a removal would cause serious damage to the reputation and honor of the dismissed individual; in the present case, however, a decree had been issued by the Bishop without any reason whatsoever. And indeed, there could be no just reason, since some brothers had been deprived of their active and passive voice, a punishment prescribed by the statutes of the sodality, solemnly confirmed by the Bishop. Nor could the nullity of the election be alleged,

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either because some of the brothers were relatives of the governor, or because it was alleged that he had arranged for certain individuals to be present to ensure his re-election; for with regard to the first point, it has been established by law that even brothers who are related can cast their votes, as Monacellius states (op. cit., p. 2, title 14, form 8, no. 3 and following). Indeed, a son can vote for his father, and the father for his son, because in matters of public law, neither nationality nor blood ties are considered, since it is presumed that everyone is motivated more by the good of the community than by affection for their relatives, as Barbosa states (De potest. Episc., Alleg. 72, no. 93). The Rota in Fermo, concerning the Capellania, on July 1, 1668, also made a similar ruling; and the statutes of the sodality, which are in accordance with these rulings, grant all professed members an active voice in the congregations. As for the alleged machinations carried out by the governor, the Defender maintained that they were entirely false, first, based on the testimony of an ecclesiastical delegate, who asserted that the election had been carried out in accordance with the rules and statutes of the fraternity; second, based on the Catholic ephemerides, which unanimously refuted the accusations leveled against the governor; and finally, based on the testimony of the most honorable men, both lay and ecclesiastical, who did not hesitate to publicly attest to the religiousness and proven integrity of the officials. From all of this, it was clear that the Bishop had no power to remove the elected officials, and in this case, there were no reasons for such a removal.

[*Latin ed. p. 22*]

22. The decree concerning the election and removal [of officials], dated September 25, 1876, could not, it was argued, stand firm. After these remarks, the speaker proceeded to the third point of his argument; and with all his strength, he refuted what were presented as calumnies, especially those that attributed wrongdoing to the elected governor. Indeed, he demonstrated, through testimonies gathered from all sides, that the accusation that he had accepted a bribe from the house of a certain legate was false. He also proved that it was false that he had rented certain lands and workshops at a price lower than their value; for if they were rented for a higher price by the new administrators, this was because the burden of maintaining the walls and workshops now falls upon the sodality, whereas previously this obligation was imposed upon the renters, along with the obligation to make further improvements. Furthermore, he stated that the construction of the new port, which is located near the workshops, had increased their value. Moreover, he attempted to refute other matters of lesser importance, and at the same time, the governor's defender argued that those who brought their complaints to the Bishop were motivated by hatred and a desire for revenge, especially because of their animosity towards the governor's brother, Francis B. He stated that,

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from the arguments presented, it was clear that the election was legitimate and free; that there was a lack of power in the Bishop; and that there was a lack of grounds for destroying the elected officials; and that there was no reason to doubt their integrity; therefore, he concluded, the election should be upheld, and the Bishop's decree should be overturned.

DEFENSE OF THE CONFRATERS. The defender of the confraters argued that the Bishop's decree, which was the subject of the appeal, was interlocutory, that is, it arose from two pending proceedings before the Episcopal Curia, one initiated by themselves, the other by their adversaries. For when Francis B. and others elected officials requested confirmation of the election, the confraters excluded from active and passive voting, presented a petition, urging: 1. The admission of new members to the sodality without a scrutiny. 2. The nullity of the election of July 16. 3. The appointment of new officials for the entire biennium of 1877-1878; thus, to prevent the bad administration of the sodality.

[*Latin ed. p. 23*]

SECTION 23: CONCERNING THE REMOVAL AND APPOINTMENT OF OFFICERS

That a remedy might be brought about and the vices of the aforementioned election be exposed. And when the Bishop, having knowledge of the matter by the report of the Curia, issued his Decree, he appointed a new governor and new officials, who were to provisionally administer the affairs of the confraternity. Furthermore, the Advocate argued that the Bishop had never confirmed the election of July 16th; therefore, those elected could not be considered true officials of the confraternity according to common law and the statutes, nor could they complain of any right being taken away from them. However, it is less disgraceful to be provisionally excluded than to be completely removed after having obtained possession, especially when the cause is fully known. Nor should any stigma be attached to those who were dismissed, because the Bishop declared in his Decree that he had followed this course after considering the complaints and decisions received from various sources, some of which required further consideration. Therefore, the Bishop did not dismiss the appellants as if they were guilty of some crime; rather, he appointed several officials to ensure that the administration would not lack leadership and direction while the matter was under investigation. This is evident from the wording of the Decree, in which it is stated that new officials were appointed provisionally and temporarily, so that the confraternity would not lack officials; considering all the circumstances, without any prejudice to the parties. Indeed, the justice of the Decree would be more apparent if the principles of common law were considered, according to which, in

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order for something to be considered definitive, it must either absolve or condemn regarding the question raised by the litigants. Therefore, the Decree in question is entirely interlocutory, since it was issued after two undecided hearings concerning the confirmation of the election and the restoration of the confraternity, with the elected officials being temporarily removed; and therefore, it could not be appealed, because, according to the Council of Trent, Canon 20 of Session 24, an interlocutory judgment cannot be appealed unless it has the force of a final judgment, or it causes a harm that cannot be remedied by an appeal from a final judgment. Indeed, the defender maintained that the aforementioned Decree did not have the force of a final judgment, because, after the appeal was interposed, the proceedings in the Episcopal Court were suspended.

[*Latin ed. p. 24*]

24. CONCERNING THE ELECTION AND REMOVAL of officials, with regard to the merits of the matter; no one prevents those elected from appealing to a higher court after a judgment has been rendered. And it is far less the case that this decree inflicts an irreparable harm on the final judgment, for it has already been demonstrated that the nomination of officials by the Bishop, at the same time that it benefits the sodalities, does not prejudice those officials who have been dismissed. Furthermore, it cannot be doubted that the decree is not merely an interlocutory judgment, but a provisional one, as is clearly evident from its very tenor; and since appeals are not permitted from interlocutory or provisional judgments, it follows that if an appeal is not permissible, the court must, of its own accord, confirm the judgment of the first instance; but in the Sacred Congregation, which is the tribunal of the Prince, the form of the pronouncement is of no consequence, provided that it conforms to the requirements of justice. Here, the Advocate sought to persuade the court to confirm the decree, arguing that the Bishop, by virtue of the provisions of Chapter 7 of the Decrees concerning Offices, enjoys jurisdiction over all pious institutions within the diocese, and has the right to approve the officials, without whose approval they cannot legitimately exercise their duties, as the Synod of that diocese itself decrees. Nor may any elected official undertake any duties without first obtaining our confirmation (Session III, Chapter 6, Concerning Confraternities). But he who is to confirm must also inquire, lest he confirm improperly, for confirmation is not a necessary act, but one that depends on the validity of the elections and the eligibility of the persons; and if the Bishop, during this inquiry, which is not subject to any time limit, sees that the administration is being delayed or is in some way being corrupted, he may and must take precautions, even against those who are rectors and officials, and such precautions are a necessary part of the

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protection entrusted to him in the act of confirmation.

[*Latin ed. p. 25*]

ON THE VALIDITY AND INVALIDITY OF ELECTIONS, 25. The authority to confirm an election, as Pitonius states in *Disputationes Ecclesiasticae*, 155, number 65, also involves the authority to make other related decisions, such as judging doubts that have arisen concerning the said election. Furthermore, in this case, the statutes specifically grant this authority to the Bishop; for in the year 1716, when approving the statutes of the confraternity, he reserved for himself and his successors the power to regulate, correct, diminish, increase, and even entirely abolish them. This authority carries far greater weight than that which the Bishop exercised in provisionally removing the elected officials on July 16, 1876. The speaker then proceeded to enumerate several points individually, in order to demonstrate that the election lacked the external formalities that are necessary for it to be considered valid and legitimate. He asserted that numerous deceptions and machinations had been employed against the freedom of the election: four members had been unjustly excluded from both active and passive voting, under the pretext of a decree of the Ordinary from July 9, 1789, which had been obsolete for many years and unknown to the confreres. Consequently, anyone who did not attend the procession on the feast of the Blessed Virgin Mary of Charity would, without just cause recognized by the governor, lose their right to vote. He also recounted abuses, arbitrary actions, negligence, and the mismanagement of the elected officials that the confraternity had experienced in the preceding two years, and which the Bishop had promptly addressed. In order for these matters to be known to the Episcopal Curia, a suitable time was necessary; therefore, in response to the appeals or protests of the confreres, as Pitonius states, if they are made before the election, they operate to keep the election in suspense (*Discep.* 155, number 56), a provisional decree was issued from which it was not possible to appeal. Thus, the merit of the cause concerning the reestablishment of the confraternity and the definitive appointment of new officials remains entirely with the Curia. For the judges of the appeal, in this case, are forbidden to pronounce judgment on the principal matter of the cause, unless the appeal itself has been made and the cause can be decided on its merits without other evidence. If, hypothetically, the Congregation...

[*Latin ed. p. 26*]

26. Concerning the power to judge, whether in matters of merit or due to an incident, he stated that it was certain that a decree could not be revoked, because by its very nature it was unappealable; however, the cause was not yet in a state of completion, as it still lacked many proofs. The Court of Appeal, however, is not compelled, but can judge the merit; this faculty is almost never used by the judges of appeal, and the Holy Congregation

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cannot use it, because the other party's ancient petition concerning the reform of the Fraternity to the Holy Order has never been presented. This is the essence of what was debated by the defenders, regarding the question, which was formulated in common agreement in these words: "Whether the election of the Rectors of the Fraternity in the assembly of July 16, 1876, was legitimate, so that the episcopal decree of September 25, 1876, in this case, may be confirmed or annulled; but the Holy Order considered that this formula should be reformed, and proposed the following question: Whether the episcopal decree of September 25, 1876, should be confirmed or annulled in this case?" RESOLUTION. The Sacred Congregation of the Council responded on June 15, 1878: "The episcopal decree should be annulled only in that part in which new confratres are perpetually constituted." FROM WHICH IT CAN BE GATHERED: I. In confraternities, the election of officials pertains to the confratres. II. For an election to be considered free and legitimate, it requires: 1. That due notification be properly given to the confratres; 2. That the confratres complete the election by secret ballots; 3. That he who is elected be the one who received the majority of the votes of the confratres present. III. According to the second point, it is possible, either by statute or by custom, to modify this form of election, or even to introduce a new form, provided that the freedom of the election remains intact and secret.

[*Latin ed. p. 27*]

27. To the Bishop, the faculty is granted to visit the pious association, to oversee the administration of its goods, so that the pious cause may not suffer any detriment, and to attend, either in person or through his delegate, the assemblies at which the officers are elected; however, he cannot interfere in the administration, nor introduce innovations, especially those which diminish or abolish the rights of the brethren.

5. Therefore, in this case, it was not possible to suspend the elected officers through a provisional decree, nor, indeed, to remove them from administration; however, it was not possible to establish new brethren permanently.

6. From an interlocutory or provisional decree, an appeal is not admitted, unless it has the force of a final judgment, or it inflicts a harm which cannot be remedied in a final judgment.

7. In this case, however, the Congregation admitted the appeal, for in part it recognized the episcopal decree as valid; in part, namely, in that in which new brethren are established permanently, it declared it invalid.

8. From this, it can be aptly concluded that the Congregation considered the decree provisional, insofar as it prohibited the elected officers from administering the association; and final, insofar as it admitted new members without the consent of the others.

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9. Therefore, for grave reasons, the Bishop can provisionally suspend the elected officers, and new members can suffice to prevent the pious cause from suffering detriment; however, he cannot definitively establish new brethren or officers, although he has the right, properly, to confirm the duly elected officers before they undertake the administration.

[*Latin ed. p. 28*]

28. DISPENSATION FROM IRREGULARITY. May 4, 1878. Through summary petitions, a COMPENDIUM OF THE FACTS. Peter, a priest and pastor of the place G., in the diocese of A., having been afflicted with a stroke, was so impaired in the use of his right hand that he could not diligently "fulfill" the sacred ceremonies of the Mass, although he could conveniently perform all the actions of the sacrifice with his left hand. Thus afflicted, the Most Holy Prince humbly implored that it might be benignly granted to him to perform all the actions with his left hand, to which he was less able to adapt his right hand; and that, at least, in a provisional manner; and that he might hope that, with the passage of time, he might be able to use the affected part with greater strength. The Bishop, in a suppliant letter presented for the pastor, did not hesitate to add his prayers to those of the petitioner. The Sacred Congregation replied to the same Bishop, stating that he should first conduct an experiment before the master of ceremonies, to ascertain whether the priest could properly perform the actions of the Mass, and that he should also provide a medical testimony indicating whether the same priest could further recover the use of his right arm. However, with the Episcopal See vacant, the instructions were carried out by the Vicariate Capitular, who, after receiving both the medical and the master of ceremonies' documents (of which more below), added in his decree of December 17, 1877, that Peter, "lacking the perfect use of his right arm, . . . has been celebrating the Mass for approximately four months now, with the assistance of a priest."

I. WHAT OPPOSES THE GRANTING OF THIS GRACEFUL CONCESSION. A dispensation from the defect of irregularity should not be granted, where the sacred ceremonies...

[*Latin ed. p. 29*]

•DISPENSATIONS FROM IRREGULARITIES: Dispensations from irregularities cannot be granted without irreverence to the sacred rite and scandal, or the admiration of the faithful. On this matter, the Sacred Congregation has often denied grace, or has permitted it only in a private chapel, or at a time when there would be less frequent attendance of the people, as in Abellinen. Irregularity, July 28, 1770, confirmed May 4, 1771, and in Germany, May 28, 1788. However, it is barely necessary for the reader to be shown that such a dispensation can give rise to the people's admiration and cause them to despise the sacred ceremonies – as the

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following example demonstrates: "From a certain experience, I testify that the Reverend Father Peter Baldo, because of the lack of perfect use of his right arm, was unable to properly perform all the actions of the Mass; however, he was able to perform them with the help of that arm and with the assistance of his left hand, also used to support the paten for the chalice during the distribution of the Precious Blood to the minister, whom the assisting priest must otherwise caution. Therefore, the requested grace seemed to be to be denied."

FROM WHAT THINGS THE CONCESSION OF GRACE IS FAVORED: However, when it is a matter of a previously ordained priest, and not of one who is being ordained, and when the irregularity has arisen without fault, it is then easier for the Sacred Congregation to grant a dispensation, as taught in the Decrees of Irregularities of May 6, 1775, and July 11, 1776. Bayonne, March 20, 1824. Astorica. A dispensation from an irregularity of February 27, 1869, among the Summ. Prec., and many others. It is specifically reported that a dispensation was granted to a certain Religious, who, because of a disease of the hand, was impeded from celebrating, with the assistance of another priest, by Henriguez, book 14, chapter 8, number 4, and book 9, Leander, Opera Moralia, part 5, treatise 2, On Irregularities, part 89, who further adds that it is possible for the Holy Pontiff to grant a dispensation to a priest who lacks both hands, so that, however, through the hand of another priest, he may elevate, break, and consume the Host. In Cosentina, the case of a priest who had lost the flexibility of his right arm was considered, so that he could neither elevate it, nor make the sign of the cross on his forehead, chest, or shoulders, or on his mouth, nor could he consume the Sacred Host and the Precious Blood during the celebration of the Mass, unless with the help of his arm and his left hand, although he performed all the other ceremonies of the Mass properly. Given the aforementioned doubts: I. Whether the priest is irregular. II. Whether a dispensation should be granted to him.

[*Latin ed. p. 30*]

-30 DISPENSATION FROM IRREGULARITY: A dispensation, so that he might celebrate Mass in her presence. » The Congregation responded on July 13, 1725: « To I. Affirmative. To II. At the discretion of the new Archbishop. A similar dispensation was also granted in similar cases in the Piacentine report, on February 1, 1766, and in Lünen-Sarzanen, on December 16, 1769, and in the aforementioned Aitoricen. In Goritien. A dispensation from irregularity, dated January 17, 1872, related in the petition, in which a request was made for permission for a priest, John Cerù, afflicted with apoplexy and unable to use his left hand, to perform all the actions of the sacrifice which he could not accomplish with his right hand, the response was: « For the granting of dispensation and rehabilitation, it is left to the discretion and conscience of the Archbishop, provided that he celebrate

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with the assistance of another priest, for a period of three years, and as long as the illness does not worsen, with the understanding that this is done with the approval of the Most Holy. » Having considered these matters, it is easily understood that the requested grace should not be denied to the petitioner. Moreover, as testified by the Bishop, the same parish priest requested this for his own spiritual benefit, as well as for that of the faithful entrusted to him; in such a case, the rigor of the canons is more easily relaxed, as taught in Florent., April 19, 1823, and Hydrunt., February 21, 1824, and because the impediment does not appear to be perpetual, since there is hope for improvement with the passage of time, that the petitioner may regain his health, as evidenced by the testimony of the physician. Having briefly considered these matters, it was left to the judgment of the Most Eminent Cardinals to determine the response to the petitioner's prayers. RESOLUTION. The Sacred Congregation, on May 4, 1878, after deliberation, gave the following response: With prior absolution regarding the past, for the granting of dispensation and rehabilitation, it is left to the discretion and conscience of the Archbishop, provided that he celebrate with the assistance of another priest for a period of three years, and as long as the illness does not worsen, with the understanding that this is done with the approval of the Most Holy. FROM WHICH IT MAY BE GATHERED: I. The decrees of the Roman Pontiffs appear to establish irregularity due to a defect of the body, in mutilation, in weakness, and in deformity of the body; through which the minister of the Church becomes either impaired or unfit.

[*Latin ed. p. 31*]

DISPENSATION FROM IRREGULARITY

31. When performing the sacred office, either horror or derision may be aroused in the people.

II. Speaking of these causes of irregularity, Pope Eugene, in Chapter II of the book *Presbyterorum de clericis aegrotis*, states that concerning a priest to whom the middle finger of his hand had been severed at the second joint, we do not permit him to celebrate, because "neither can this be tolerated without danger, due to his weakness, nor without scandal, due to the deformity of the member."

III. A bodily defect, arising after the reception of the orders, does not simply induce irregularity, but only with regard to those actions which, due to such an impediment, the ordained person cannot perform without scandal, without danger, or without irreverence (1).

IV. A priest to whom some bodily defect arises, by which he becomes irregular, must immediately request, solely from the Apostolic See, a dispensation, which is now more easily granted than it was formerly.

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V. Therefore, before the grace of dispensation and rehabilitation was granted in this case, it was necessary for the parish priest to be absolved for having celebrated Mass for four months without the permission of the Apostolic See, while he was irregular.

FROM THE DECREE OF THE HOLY CONGREGATION FOR RITES CONCERNING THE BEATIFICATION AND CANONIZATION OF THE VENERABLE SERVANT OF GOD, Vincent Mary Morelli, of the Congregation of Regular Clerics of the Theatines, and Archbishop of Hydrus.

Presented by the Reverend Father Charles Pellicani, a priest of the Congregation of Regular Clerics of the Theatines, Postulator of the cause of beatification and canonization of the aforementioned Venerable Servant (1).

(1) Hence, Pope Eugene, in Chapter II of the book *Presbyterorum de clericis aegrotis*, and the Theologians, along with Suarez in *De censuris*, dist. 5, § 1, n. 3, state: "We do not prohibit a priest who is weakened from performing the other priestly duties, but we do prohibit him from approaching the altar." The common practice is to allow him to hear confessions.

[*Latin ed. p. 32*]

32. The Decree of God Vincent Mary Morelli, Eminent and Reverend Lord Cardinal Aloysius Bilio, of the same Cause, proposed the following Question at the Ordinary Assemblies of the Sacred Rites, held this day at the Vatican: "Whether the judgment of the Reverend Archbishop of Hydrus, delegated by the Apostolic See, concerning the cult, namely the so-called Venerable Servant of God, not exhibited, or concerning the conformity of certain decrees with those of Pope Urban VIII, should be confirmed in the case and to the effect of which we are speaking?" Furthermore, the Eminent and Reverend Fathers presiding over the Sacred Rites, having duly considered all matters, and having heard the voice and written opinion of the Reverend Father Lawrence Salvati, Promoter of the Holy Faith, judged it fitting to write: "The judgment is to be confirmed, according to the first point, which is to be considered as a support." December 7, 1878. Subsequently, a faithful report of the aforementioned matters was made to the Most Holy Lord Pope Leo XIII by the undersigned Secretary. His Holiness deigned to consider the Rescript of the Sacred Congregation in all respects as valid and to confirm it on the 19th day of the same month and year.

D. CARDINALIS LOCO

)Ji Signi
BARTOLINIUS

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S. PLAC. RALLI

S. R. R. C.

PRAEFECTUS

C. SECRETARIUS

[*Latin ed. p. 33*]

33 APPENDIX I. DECRETA AUTHENTICA EX CONGREGATIONIS ACTIS EIUSDEM SANCTI HIPPOLYT! Reverendissimus Dominus Ioseph Fessier, Episcopus Sancti Hippolyti, Sacrae Rituum Congregationi, ad opportunam solutionem, haec dubia exhibuit:

I. Episcopus, visitationem suae Dioeceseos instituens, invenit quod in plerisque Ecclesiis Parochialibus, Altare principale seu Maius non sit Altare fixum, sed tantum ligneum, cum Ara lapidea seu portatili. Quaestio est si hoc tolerari possit?

II. Altaria autem portatilia plerumque talia sunt, ut ex duabus partibus constent, et quidem pars superior est lapis, pars inferior est lignum: et inter lapidem et lignum, in quodam concavo spatiolo positae sunt Reliquiae Sanctorum, quae proinde ex una parte lapidem, ex altera parte lignum tangunt; adeo ut sepulchrum pro dimidia sua parte ex lapide, pro altera dimidia parte ex ligno formetur. Quaestio est si haec Altaria portatilia in usu retineri possint?

III. Aliqua etiam Altaria portatilia, licet nec sepulchrum fuerit violatum, nec enormis fractura adsit, tenui scissura laborant, quae Sacrorum Ritum Collecta per medium integrum lapidem decurrit. Quaestio est si per eiusmodi tenuem scissuram ad instar fili Altare execratum censendum sit?

IV. Altaria fixa cum tabula ex lapide, ubi nec de Ecclesiae ipsius, nec de Altaris consecratione ulla extat hominum memoria, nec in scriptis aliquid invenitur, ab antiquo tempore Missa celebrata semper fuit, an possint haberi pro consecratis? Et in casu negativo, quid agendum de eiusmodi Altaribus?

V. Item reperiuntur Altaria fixa, quorum sepulchra per Parochos olim aperta fuere, et post repertas Sacras Reliquias iterum clausa. Quaestio est si huiusmodi Altaria pro execratis habenda sint?

VI. An permitti possit Calix vel Patena pro offerendo sacrosancto Missae Sacrificio ex cupro bene deaurato, pro Ecclesiis pauperibus, quandoquidem sententiae auctorum, juxtà rei de Albertis de ss. Utensilibus, ea de re inter se non conveniunt?

VII. An saltem permitti possit Ciborium, seu sacra Pyxis ex cupro deaurato? Item Monstrantia et Lunula?

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Monitum: Appendix quarta adiicienda celebri collectioni Gafdellianae in lacera prodiit, continens decreta ab anno 1867 ad annum voluminis fasciculus nonnulla ex 1877. Unusquisque huius eisdem referet, donec tota appendix illa exhibita sit lectoribus nostris. Appendix tertia iam relata fuit Vol. III, pagina 563 et sequentes; Vol. IV, pagina 44 et sequentes. Acta, Tom. XII, Jase. XXXIII.

[*Latin ed. p. 34*]

3. Regarding the Blessing of Altars. It is found in Antonelli's *De Regimine Ecclesiae Episcopalis*, book 1, chapter 17, that the following assertion is made: "If a priest, in good faith, celebrates with vestments that have not yet been blessed, other priests may celebrate with the same vestments in a lawful manner, because, through the first celebration made in good faith, they remain consecrated, or blessed." The question arises whether it is safe to follow this in practice?

I. Regarding the Blessing of an Abbot: The Roman Pontifical uses the following words concerning the authority of the Ordinary: "On the day established for his blessing, everything is ordered according to the statutes." It is asked whether the "day" for such a blessing, by the authority of the Ordinary, should be understood in the same way as in the blessing of an Abbot by Apostolic authority, where the day must be a Sunday, or a feast day, according to the explicit ordinance of the Roman Pontifical?

The Sacred Congregation of Rites, having heard the aforementioned opinion in writing from another of the Masters of Ceremonies, and having carefully considered all matters, decided to respond as follows:

I. Provided that there is at least one altar in the church that is permanently fixed, which may be constructed from the wall with a stone altar, which is called portable, the remaining altars, even the larger ones, may indeed be made of wood with a portable altar, and this may also be the case in a parish church. If, however, no altar is found that is at least constructed from the wall, it is fitting that at least one such altar be erected, and it is also fitting that it be the main altar.

II. Portable altars, as described in the question, are not permitted, but the relics are to be placed in a niche within a stone, and closed with a small cover also made of stone.

III. Affirmative.

IV. Affirmative for the first part of the question; for the second part, provision has been made in the first.

V. Affirmative.

VI. The rubrics are to be observed.

VII. Affirmative.

VIII. Negative.

IX. It is more fitting to do it on a Sunday, or a feast day. And thus it

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responded on August 31, 1867.

GENOA. In the Metropolitan Church of Genoa, on the feast of the Lord's Supper, with the Most Reverend Archbishop celebrating, for the procession of the Most Holy Sacrament, this observance has been maintained for a long time, whereby the Deacons and Subdeacons who ministered at Mass also remain to minister in the procession, while those who served at the altar depart. Only three years ago, the Archdeacon, to whom, according to the provisions of the Ceremonial and local custom, the first assistance of Deacons at the altar is assigned, convinced himself that he, too, should continue in the same office at the altar in the ministry of the chalice with the Most Holy Sacrament and in the procession. However, since this action gave rise to considerable controversy in the Chapter, and even more so because the Archdeacon himself exercised this office,

[*Latin ed. p. 35*]

"Concerning the matter of the vestments to be worn each year, since the controversy raised was not easily resolved according to the Ceremonial of Bishops, the aforementioned Chapter decided to appeal to the Sacred Congregation of Rites, and with the express permission of the Most Reverend Archbishop and by order of the Chapter, the Archpriest John Baptist Daneri, exercising the office of mass, proposed the following eight questions to the Sacred Congregation of Rites for a suitable solution, namely:

QUESTION I. Whether the custom of Genoa is to be maintained, whereby on Feast Days, on the Feast of the Lord's Supper, those Deacons and Subdeacons who have served in the Pontifical Mass, upon departing, remain with the Archbishop in the procession as Ministers, and whether this is supported by at least a probable interpretation from ancient times by the Ceremonial of Bishops, or by an unchangeable custom?

QUESTION II. If, however, said custom is not to be maintained, should only those Deacons who were assisting at the Seat remain on either side of the Prelate, the Deacons and Subdeacons of the Mass having departed?

QUESTION III. If only those assisting at the Seat remain, is it sufficient for the more worthy of them to be prepared with only a dalmatic over the rochet, without a stole, in order to present the Holy Sacrament to the Archbishop and to receive it from him?

QUESTION IV. If that is not sufficient, is a stole over the amice and rochet sufficient, worn under the dalmatic?

QUESTION V. In that case, when should that stole be put on, either "when he first prepares for Mass," (citing I Timothy 3:16), or immediately before the Procession?

QUESTION VI. If the stole alone is not sufficient, and it is required, as was decreed in Portugal on September 17, 1785, that the complete diaconal habit be worn, whereby the more worthy Deacon should put on the amice,

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alb, stole, and dalmatic, either when he first prepares for Mass, or immediately before the Procession?

QUESTION VII. If it is necessary for the first of them to wear the complete diaconal habit, should the other assisting Deacon also put on the alb at the same time?

QUESTION VIII. And if all the Canons, except the Presbyter assisting, are to remain near the Celebrant, serving at the Altar and Seat, to which Deacon does it pertain to present and receive the Holy Sacrament, the Deacon of the Gospels, or the Deacon who was assisting on the right at the Seat?

And the same Sacred Congregation, convened in ordinary session at the Vatican on the aforementioned day, after hearing the report of the Most Eminent and Reverend Cardinal Nicholas Clarelli Paracciani, and after having previously learned the opinion written by one of the Masters of the Apostolic Ceremonies, and after carefully considering all matters, decided to respond as follows:

To Question I: In the case in question, nothing is to be changed.

To the remaining questions: Provision is made in the first.

And thus it was written, and it was ordered that it be observed in the Metropolitan Church of Genoa on February 29, 1868.

DOUBTS. When the Sacred Congregation of the Propagation of the Faith communicated... ”

[*Latin ed. p. 36*]

36 APPENDIX I. To the Congregation of Rites, the following question was proposed for appropriate resolution by the Reverend Thomas M. Aulipe, namely: ”Whether the Collect and Postcommunion of Saint Ireneus, the Martyr, when recited during the Secret and Postcommunion taken from the Mass for obtaining peace, according to the order of the Ordinary, are the same, except for the name of the Saint, what should be done?” The aforementioned Sacred Congregation, after careful consideration of the question by the Secretary, decided to respond as follows: In this case, the Collect for Peace should be omitted. February 29, 1868. GALLIPOLI. The present Master of Ceremonies of the Cathedral Church of Gallipoli and Canon of the same Church humbly requested the following questions to be answered by the Sacred Congregation of Rites: QUESTION I. Since, according to the statutes of the same Church, the Master of Ceremonies must be a Canon, can he exercise his office in Pontifical functions, wearing the canonical insignia over a lower garment of violet color? QUESTION II. Can the Bishop of the aforementioned Cathedral Church of Gallipoli permit his Canons to wear a lower garment of violet color during these functions, to which is added the decree of His Majesty Francis, King of Sicily, dated September 25, 1829? The aforementioned Sacred

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Congregation, after considering the questions proposed by the Secretary, decided to respond as follows: To I. Affirmative, that is, with the violet garment and over the rochet, a superpellice. To II. Negative, and this can only be done with Apostolic permission. And thus it responded on February 28, 1868. LINGONEN. The present Bishop of Lingonen. To the Sacred Congregation of Rites, the following was presented: "By an indult granted by Cardinal Caprara on April 9, 1802, certain feast days in France were suppressed, so that the precept of hearing Mass and abstaining from servile works would apply on those days; while others, a smaller number, such as the Epiphany, the Feast of the Body of Christ, and the feasts of the Holy Apostles Peter and Paul, were transferred to the following Sunday with regard to the solemnity; in the same Indult, 'the following law was added, that in the suppressed feasts and vigils, nothing of the usual order and rite of the Divine Office and Sacred Ceremonies should be changed, but everything should be performed exactly as it had been customary hitherto, except for the feasts of the Epiphany, the Most Holy Body of Christ, the Holy Apostles Peter and Paul, and the feasts of the patron saints of any diocese or parish, which will be celebrated on the immediately following Sunday.'" Thus, the Indult. But with the passage of time and the diminishing piety and fervor of the faithful, the celebration of Mass with...

[*Latin ed. p. 37*]

37 >ix f. singing in feasts, which had ceased to be obligatory: for when the faithful had ceased to attend Mass on these days, the pastors considered it neither necessary nor even useful to sing the Mass. For: now there are three or four feasts suppressed in which the pious, or less frequent, people of the Diocese of Langres have retained the custom of attending Mass. Having stated this, the aforementioned Bishop requested: 1. That it be permitted to the parish priests to not sing Mass on suppressed feasts, wherever the custom of the faithful attending has ceased. 2. That for the Feast of the Immaculate Conception of the Blessed Virgin Mary, whose solemnity, by a special Indult, is transferred to the second Sunday of Advent in the Diocese of Langres, the same procedure and reason be followed as for the Feast of the Epiphany, the Most Holy Body of Christ, etc., that is to say, that Mass need not be sung on the day it falls, if it is to be celebrated on the following Sunday. The Sacred Congregation of Rites, after considering the requests reported by the undersigned Secretary, deemed it appropriate to respond: The Indult of Cardinal Caprara should be observed, and the response of the same Sacred Congregation to Question IV in Aquila, dated October 18, 1818. And so it responded on February 29, 1868, in Nueva Segovia. The Most Reverend Dom John Joseph Aragonés, Bishop of Nueva Segovia, stated that it was an ancient custom in his Diocese to carry a baldachin in processions, in which the images of the Saints are carried, but in such a

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way that the aforementioned images are not under the baldachin, but the baldachin is carried behind them. Indeed, since, by Decree of the Sacred Congregation of Rites of May 27, 1826, it is never permitted to carry the images of the Saints processionally under a baldachin, the aforementioned Bishop humbly inquired: "Does the custom of carrying the baldachin behind the images of the Saints fall within the prohibition of the aforementioned Decree? And, notwithstanding the same Decree, can the baldachin itself be permitted to be carried behind the images of the Saints, given the unforgettable custom?" The same Sacred Congregation, having heard the report made by the undersigned Secretary, deemed it appropriate to respond: The aforementioned custom can be tolerated. And so it responded on February 29, 1868, in Nuceria. In the Diocese of Nuceria, Saint Reginald, Bishop and Confessor, is venerated as the principal patron, and his feast is observed throughout the entire Diocese under both precepts, namely, attending Mass and abstaining from servile work. However, since there are also particular patrons in the individual towns and places of the same Diocese, there is not always the same opinion among the clergy regarding the commemoration of these same patrons in prayers. Therefore, the present pious Bishop of Nuceria, in order to eliminate all variety of opinions in this matter, deemed it his duty to approach the Sacred Congregation of Rites, and to

[*Latin ed. p. 38*]

38 APPENDIX I. The humble request is made to resolve the following doubts:

DOUBT I. Whether, within the entire Diocese, a commemoration of the aforementioned Saint Rinaldus should be included in the votive Masses?

DOUBT II. And, if so, whether a commemoration of the Patron or titular saint of the place should also be added?

The Sacred Congregation, having maturely and carefully considered the matter, and having heard the opinion of both Masters of the Apostolic Ceremonies, has approved the following response to the doubts submitted by the undersigned Secretary:

To I. Affirmative, in this case.

To II. Likewise affirmative; provided that the Patron is the principal one, and the commemoration of the titular saint of the proper Church is never omitted.

And thus it responded, and ordered that it be observed in the Nucerina Diocese, on February 28, 1868.

RATISBON. Frederick Pustet, bookseller of Ratisbon, who is preparing a new edition of the Roman Missal, humbly requested that the Congregation of Sacred Rites deign to decide on the following doubts.

I. In many Dioceses, especially where the Confraternity of the Sacred

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Heart flourishes, votive Masses of the Sacred Heart of Jesus, when permitted by the rubrics, are often requested, both by the statutes of the Confraternities and by pious faithful. However, the Mass which is included in the Missal after the feasts of the month of May, and which is prescribed for the entire Church, does not contain either the Tract after the Introit, nor the Alleluia with its verses during the Paschal season. Many priests lament this circumstance, believing that such a Tract or Alleluia is lacking in the Ratisbon edition of the Missal due to the editor's fault. Therefore, the following is asked:

1) Who is to say the Tract after the Introit, or which verses are to be said during the Paschal season in such votive Masses?

2) Is it permissible to say the Tract or verses that are indicated in the Missa Egredimini of the same feast, which are granted for certain places, for votive Masses?

3) What is it permissible to add in the body of the Missal in the Mass of the Most Holy Heart of Jesus, with regard to the aforementioned votive Masses?

II. In the rubric that precedes the Preface of the Cross, to be sung on a feria (weekday), an addition is lacking regarding votive Masses of the Most Holy Heart and Precious Blood of Our Lord Jesus Christ. Therefore, it is asked whether this rubric can be concluded as follows: "And in the votive Masses of the Holy Cross, of the Sacred Heart, and of the Precious Blood of Our Lord Jesus Christ."

III. No Preface of the Nativity of Our Lord Jesus Christ is found in the Roman Missal, to be sung on a feria (weekday). However, in several Dioceses, on each V (fifth) feria, a votive Mass of the Most Holy Sacrament is sung, when the rubrics permit it. Therefore, it is asked:

1) Whether, in such votive Masses, the Preface should be sung in the solemn tone or in the feria tone?

2) If the latter is affirmed, it is humbly requested that it be permissible to add the feria tone of the same Preface in the Missal, and that a place be assigned where it can be inserted, and that a rubric be prescribed for this.

[*Latin ed. p. 39*]

§ IX. It should be placed before the ferial Preface. It appears that this ferial Preface should either be immediately before the Preface on weekdays during Lent, or after the ferial Preface concerning the Holy Spirit, and the following rubric should be observed: "The following Preface, with its proper chant, is sung in votive Masses for the Most Holy Name of Jesus, and for the Most Holy Sacrament, and for the Most Holy Heart of Jesus." The Holy Congregation, having previously considered the opinion of another of the Masters of the Ceremonies of the Apostolic See, decided that, in order to answer the questions submitted to it in the aforementioned report

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of the Secretary of the same Holy Congregation, the following should be stated: To I. In the Missal, in the Mass of the Sacred Heart of Jesus, after the Gradual which is read throughout the year, the following should be added: In votive Masses after the Seventieth Sunday, after the Gradual, omitting the Alleluia and the following, the Tract is sung: "I AM THE WAY," etc., as in the Mass for the Diocese of Venice. During the Easter season, the Alleluia, Alleluia, from Psalm 29, "O Lord, my God," etc., is sung, as in the same Mass. To II. No. To III. Provided that the Mass is not a solemn votive Mass, that is, provided that it is sung without the Gloria and without the Creed, the Preface of the Nativity may be sung in the ferial tone. The same Holy Congregation grants that, for the convenience of the priests who are to sing Mass, the Preface of the Nativity may be added at the end of the Missal, in the very last place, with the following rubric: "The following Preface, with its proper chant, is sung in Masses, number 39, in votive Masses for the Most Holy Sacrament, and for the Most Holy Name of Jesus," on February 29, 1868.

SANCTUARY OF PERPETUAL ADORATION OF THE MOST HOLY SACRAMENT IN THE CITY OF NAPLES. The members of the Sanctuary of Perpetual Adoration of the Most Holy Sacrament, located in the city of Naples, have stated that they enjoy the privilege of reciting the Office of the Seven Sorrows of the Blessed Virgin Mary on the third Sunday in September, under the double rite of the first class, and on the privileged Octave, in which only the Commemoration of the Saints should be observed; except for the double feasts of both the first and second class, in which the feasts of the Saints occur with the commemoration of the Octave; and they also enjoy the privilege that the priests celebrating Mass in their church may celebrate the Mass according to the Office. However, since the Octave and the four privileged weekdays, and the Vigil of St. Matthew may occur, and if the double feasts of the first and second class do not occur, it seems, according to the rubric of the Missal, § III, n. 2, that the Mass should be either of the Feria, or of the Vigil, with the commemoration of both the Octave and the Saints. However, since a doubt has arisen regarding this matter, and the use of the color violet causes some admiration among the faithful on those days, the Superior of the aforementioned Sanctuary humbly requested the Holy Congregation of Rites: In the aforementioned Octave, since it is privileged, should the following be observed?

[*Latin ed. p. 40*]

APPENDIX I. 40. Already, the common practice, or that which is to be considered as such, is that, in addition to this, the Bishop should offer the Mass of the Octave of Corpus Christi, fulfilling his vow in penance; and concerning this, according to the aforementioned rubric, the Fathers of the Sacred Congregation, who are presiding over the current deliberations, were asked whether a Mass of the Octave should be celebrated on the day

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preceding the feast of the Vigil of the Immaculate Conception of the Blessed Virgin Mary, which falls within the Octave? After mature discussion and examination, they responded negatively, stating that, for this reason, it should not be considered necessary to invoke a privilege for celebrating the Mass of the Octave of the Feast of the Seven Sorrows of the Virgin Mary on weekdays and vigils that occur within that same Octave, but only for the commemoration of those weekdays and vigils.

Furthermore, the same Congregation, after receiving a report from the Rector and twelve priests serving the Blessed Virgin Mary of Carmel in the town of Paganorum, within the Diocese of Nucerinorum, and after considering the opinion expressed in writing by another of the Apostolic Masters, in a brief issued by the Apostolic See on November 29, 1864, granting them the faculty to use the sacred almuce perpetually in all sacred functions, responded on February 29, 1868, as follows:

NUCERINA PAGANORUM.

The Sacred Congregation, having received a report from the Rector and twelve priests serving the Blessed Virgin Mary of Carmel in the town of Paganorum, within the Diocese of Nucerinorum, and after considering the opinion expressed in writing by another of the Apostolic Masters, in a brief issued by the Apostolic See on November 29, 1864, granting them the faculty to use the sacred almuce perpetually in all sacred functions, responded on February 29, 1868, as follows:

DERTHUSEN.

Although, from the time of Pope Adrian VI, the Bishops of Derthusen have used the biretta in the manner of the Sacred Roman Church Cardinals, and this custom is said to have originated with that Pontiff, who held the See of Derthusen, the present Bishop, in order to proceed more securely, among other things requested of the Sacred Congregation, which presented a report on the state of his Church, that this custom be maintained. He added, "since this custom has been observed by the Bishops of Derthusen for three and more centuries."

However, concerning the resolution of this request, which was referred to the Sacred Congregation of Rites, the Bishop of the aforementioned Diocese was informed that, in the years 1865 and 1866, the Reverend General Vicar had denied the aforementioned priests the precedence over the rest of the clergy, which they had previously enjoyed; and that, although the aforementioned priests, after presenting their protestation to the same Reverend Vicar, had requested that measures be taken to prevent any future scandals, the Sacred Congregation of Rites, in the solution of the aforementioned doubts, requested the following:

DUBIUM I. Whether the acts of obedience should be considered as reli-

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gious and sacred functions?

[*Latin ed. p. 41*]

I. QUESTION: And if affirmative; whether precedence, without any special mark, ought to be given to the aforementioned twelve Priests, assembled collegially for the purpose of obedience, and vested in sacred vestments, over the rest of the clergy? In response, the same Congregation, having first obtained information from the Most Reverend Ordinary of the Diocese, and also having considered the written opinion of another and of the Masters of the Sacred Ceremonies, decided to respond as follows: To I. Affirmative. To II. Precedence ought to be given to them after the Canons of the Collegiate Church and after the Parish Priests. And thus it responded, and ordered it to be observed in the Diocese of Nuceria on the 27th of June, 1868. MASSAN. The Most Reverend James Bernard, Bishop of Massan, reported that in the town of Castrinovi in California, within the limits of his Diocese, the Parish Priest of the church of that town, holding the title of Abbot, was granted certain privileges concerning the exercise of liturgical functions. However, when the Bishop, as an orator, strongly doubted whether the privileges granted to the aforementioned Abbot in the exercise of those same liturgical functions were legitimately due to him, he presented the following questions to the Congregation of Sacred Rites for a suitable solution: QUESTION I. Can the aforementioned Abbot perform more liturgical functions within a year, not only in the Parish Church and the Abbey Church, but also in smaller churches and public chapels, which are within the limits of his Parish? QUESTION II. Can the triple blessing be given at a Pontifical Mass? QUESTION III. Can the Bishop himself use three mitres in the liturgical functions? The Sacred Congregation, after maturely examining the rights and having heard the written opinion of another of the Masters of the Sacred Ceremonies, decided to respond as follows: To I. Affirmative, regarding the first part, provided the Bishop is absent; negative, regarding the second part. To II. Affirmative. To III. Negative. And thus it responded, and ordered it to be observed. January 27, 1868. PERPETUAL ADORATION OF THE MOST HOLY SACRAMENT. Concerning the aforementioned sacred vessels, if there is a deficiency of revenue for the Exposition of the Most Holy Sacrament, 1. can lights, at least in part, be substituted with oil lamps? 2. and if negative, it is requested that permission be granted for this to be done by dispensation; The Congregation of Sacred Rites responded: Negative. January 27, 1868. SACRED VESSELS OF THE ORDER OF THE MOST HOLY ANNOUNCEMENT, NAMED "LE TURCHINE." Concerning the aforementioned sacred vessels, it is inquired whether the privilege of celebrating the feast of the Annunci-

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ation with its Octave is granted to them, even in those years in which...

[*Latin ed. p. 42*]

APPENDIX I. 42. It is reported only concerning the office; therefore, to remove any doubt, the Congregation of Rites decreed: The Father requested that the Holy Congregation declare: Whether the Octave of the Annunciation, when this aforementioned feast is transferred after Easter, should also have a place in the Calendar. On the 27th of January, 1868. What offices, pertaining to the Saints and Blesseds, have been granted to the secular and regular clergy of the Order of Discalced Carmelites in Genoa and the Kingdom of Sardinia? SAINT AUGUSTINE. Whether these offices, which were granted by a special concession from the Holy See to the Convent of Saint John the Baptist, have a place in the same Calendar, as requested by Father Constantinus, the present Prior of the aforementioned Convent of the Order of Discalced Carmelites of Saint Augustine in Genoa, to which was entrusted the task of preparing the Calendar for said Convent, after mature and accurate consideration, and with the opinion in writing of the Masters of the Ceremonies of the Apostolic Chamber, taking into account the aforementioned Decree of March 30, 1846, he decided: No, to both.

Furthermore, he declared with respect to the Offices of the Holy Relics, that these offices, which were repeated in the aforementioned Convent, can indeed be retained under that double class, but must be celebrated on the same day, as decreed by Father Joseph Palermo, then Procurator General of the Order of Discalced Carmelites, on March 30, 1846; and in which it is stipulated that, in order to introduce uniformity in the Divine Offices among the students of both sexes of the aforementioned Order, no other offices should be admitted in the Calendar, than those to which both the secular and regular clergy are bound, either by the Rubrics or by Decrees.

The Metropolitan Ceremonies of the City of Lima humbly requested that the Congregation of Rites resolve the following doubts:

[*Latin ed. p. 43*]

I. QUESTION I. On the anniversary of the dedication of the Metropolitan Church of Lima, a procession takes place within the interior of the church, and the altar crosses are incense. Some, who are far from being experts in sacred matters, assert that the aforementioned crosses ought to be incense by a Canon celebrating, kneeling, and that all those present should similarly kneel. They say that this custom has always prevailed in this cathedral; which seems to be entirely due to ignorance, for the altar cross and the very Relic of the Holy Cross are not to be incense by the celebrant kneeling. Therefore, it is requested that the Sacred Congregation declare, in a manner that all may understand, 1. whether the aforementioned crosses ought to be incense by the celebrant kneeling? 2. Whether those present ought to adore them while kneeling?

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II. QUESTION II. On the feast of the Body of Christ, an exposition of the Most Holy Sacrament takes place in the Metropolitan Church, which is called the "Circular Jubilee," granted to this city by the Most Holy Pope Pius VII. At the end of Mass, a procession takes place according to the rite, with the Host consecrated in Mass, covered with a cloth, which is exposed on the main altar in a more prominent place in a fixed monstrance, according to the custom of the churches of Spain. Some desire that at the end of the procession, the blessing not be given with the Most Holy Sacrament, which is carried in the procession, because, as they say, the exposition of the Most Holy Sacrament does not end, but rather remains exposed immediately after the procession, until night, with the cloth replaced. Therefore, the question is asked: Should the blessing be given at the end of the procession according to the rite, or not?

III. QUESTION III. In the same Archdiocese of Lima, by concession of the Most Blessed Pope Clement XIII on December 16, 1760, the Office of Saint Joseph, Spouse of the Blessed Virgin Mary, approved for the feast of the same Saint, is recited with a lesser double rite, on every nineteenth day of each month, even if hindered by a lesser double office. In all the Directories of the Clergy of Lima, from the time of the concession until the present day, when another Saint of the lesser double rite coincides with Saint Joseph of the same rite, the complete Vespers of Saint Joseph with the commemoration of the preceding day are recited, and the same is done when the Second Vespers of the same Saint coincide with another feast of the same rite. The question is asked whether this is done correctly, especially since it seems that the decree concerning secondary feasts of the lesser double rite coinciding with Saints of the same rite but of lower dignity should be observed, in which case the Vespers are to be shortened?

IV. QUESTION IV. In the Metropolitan Church, from October 20th to the 28th inclusive, Mass is celebrated for any tribulation before the Most Holy Sacrament is exposed, in memory of the terrible earthquake that almost destroyed this city in the year 1746. The priest and ministers put on violet vestments in the sacristy, and thus proceed to the main altar to expose the Most Holy Sacrament. This was not pleasing to the Cardinal, and he did not want this exposition to take place with violet vestments, but he wanted it to be...

[*Latin ed. p. 44*]

44 APPENDIX I. During the Exposition and Reposition of the Blessed Sacrament, a white humeral veil should be used, and for the Litanies and hymns sung, violet vestments. But because many difficulties have arisen from this, in order to avoid them in the future, the following is asked: Is it permissible in the present case to use only the violet color? Or must the white color be used during the Exposition and Reposition of the Blessed Sacrament?

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DOUBT V. Can Canons, to whom the use of the palm branch is permitted, use it in the solemn Masses for the Dead?

The Holy Congregation, having heard the opinion in writing of one of the Masters of the Ceremonies of the Apostolic See, after mature and careful consideration of the doubts presented in the report of the undersigned Secretary, decided to respond as follows:

To I. No, to both parts.

To II. After the procession of the Blessed Sacrament, the Blessing must be given with the same [vestments]: this is what the rite requires. In other matters, the dispositions of the Most Holy Pope Pius VII regarding the granting of the Jubilee should be observed.

To III. Vespers will be celebrated from the following day, with a commemoration of the preceding day; and the rubrics and decrees of the Holy Congregation should be observed, notwithstanding any contrary custom.

To IV. If, after the Exposition of the Blessed Sacrament, a Mass is sung for some tribulation, and immediately afterwards the Litanies, the Blessing, and the Reposition of the Blessed Sacrament, all should be performed in violet vestments: but if no Mass is sung, but only prayers, then the white color should be used during the Exposition and Reposition of the Blessed Sacrament.

To V. Affirmative, unless otherwise noted in the granting [of the permission].

Thus it was written, and it was declared and ordered to be observed on June 27, 1868.

CELSONEN.

The Reverend Lord Vicar Capitular of the Diocese of Celsonen.

To the Congregation of Sacred Rites, the following was presented:

I. In the town of Santa Maria, called Sborra in this diocese, the Relic of the Precious Blood of Our Lord Jesus Christ is venerated for the following reason: When the esteemed Parish Priest, Bernard Oliver by name, doubted during the celebration of Mass whether Christ was truly present in the Eucharist under the species of bread and wine, suddenly, as he was holding the chalice containing the celebrant's Blood, it overflowed, soaking the corporal and the altar cloths, not with wine, but with the true species of blood.

II. Because of this miracle, the Holy See was petitioned to examine the fact, and if it pleased them, to declare it authentic; which it did, observing the things to be observed according to the Bull issued by Sergius IV in the second year of his pontificate, and declared that the fact should be considered among the true miracles, and for this reason, numerous privileges were granted in writing to the confraternity established in that parish. The authentic testimony of this Pontifical Bull is preserved in the parochial

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archive of the aforementioned town.

III. The corporal soaked with that blood still exists today in the aforementioned parish, among the sacred vessels.

[*Latin ed. p. 45*]

APPENDIX: Concerning the conventual Mass celebrated for the purpose of religiously preserving the relic, which remains perpetually imbued with the vibrant red color of the blood. I. It has been a practice, from times immemorial (and, without doubt, from a period of remarkable events), to offer corporal acts of worship to this relic. V. Recently, however, some have questioned the legitimacy of this practice, citing an instance from the *Defensor* reported by the Sacred Congregation of Rites on September 22, 1827, concerning an event that occurred in the church of Saint Ambrose in the town of Valpollicella, in the Diocese of Verona. They claim that this case is somewhat similar to the one being discussed, although they readily admit that in many essential aspects, it is profoundly different. This is particularly evident in the Instruction and decree attached to the aforementioned report in the collection of Cardinal [insert Cardinal's name here]. VI. However, in order not to proceed lightly in this matter, and knowing that in the neighboring diocese of Vich, in the town of Saint John of the Abbeys, a similar case occurred (where the consecrated Host has been preserved since the year 1251), I inquired: what form of worship was given to it? And I discovered that a form of worship was given to it, approved and promoted by more than seventy prelates, among whom were Cardinals and Archbishops, and that the Sacred Congregation, by decree of February 13, 1666, authorized the celebration of a votive Mass of the Most Holy Sacrament each year on the day of the feast of this miracle, of the Most Holy Sacrament. Therefore, since the same reasons, it seems, apply to the relic of the most precious Blood of the Redeemer, which is venerated in the aforementioned town, I humbly requested the aforementioned Sacred Congregation to declare that this relic should be venerated with acts of worship, free from any taint of superstition. The Sacred Congregation, after careful consideration by the Secretary, and after due deliberation, and after hearing the opinion of one of the Masters of the Sacred Ceremonies, and of the Reverend Father Lawrence, Advocate and Assessor of the same Sacred Congregation, decided to respond to the report of September 22, 1827, in Verona: "In the case under consideration, only those acts of veneration and worship are permitted that are appropriate for relics of the Cross of our Lord Jesus Christ." And so it decreed, and ordered it to be observed on June 27, 1868. (1) VIGILE VANEN. Two decrees of the Sacred Congregation of Rites, one approved by Pope Innocent XI on September 12, 1692, and the other approved by Pope Clement XI on September 12, 1716, stipulated that if the feast of the institution of the Eucharist fell on a Feria V (Wednesday), the local Ordinaries should provide for the celebration of several private

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Masses before the solemn Mass (1). The following two decrees, namely the General Decree and the Decree concerning Sölten, which are mentioned in the aforementioned appendix, are omitted here because they were reported in Volume IV, page 42, and Volume IV, page 152, respectively, of this ephemeral publication.

[*Latin ed. p. 46*]

46. Reasons are not lacking to fulfill the observance [of feasts]. However, since, in the Piedmontese jurisdiction, due to the reduction of feasts granted by Our Most Holy Father Pope Pius IX by means of a Brief dated September 6, 1853, the feasts of the Annunciation of the Blessed Virgin Mary and of Saint Joseph, the spouse of the same Virgin, are no longer observed by precept, and these feasts could only pertain to the Vigevano diocese on the aforementioned Friday, the aforementioned Indults of September 13, 1692, and September 17, 1716, seem no longer to be in force, since on those same days, the faithful of the diocese are not obliged to attend Holy Mass. But since, with regard to the service of the choir, the celebration of Masses, and other ecclesiastical functions, nothing should be changed by the aforementioned letters, the priest to whom the care of preparing the diocesan calendar has been entrusted humbly requested that the Holy Congregation of Rites declare what norm should be observed, since on Friday, the Feast of the Lord's Supper, there falls a feast that was previously observed under both precepts. Furthermore, the Most Reverend Fathers entrusted with safeguarding the sacred rites, assembled today in Vaticanum at the Ordinary Meeting, having heard the report of this matter made by the undersigned Secretary, and having carefully and maturely considered the matter, judged it necessary to declare: Having considered the aforementioned, there is no longer any reason to grant the concession of the Indult. And thus they declared on September 26, 1868.

ANICIEN. Joseph Fayolle, Priest and Almoner, or Chaplain of the Confraternity of the Holy Mother of God in the city of Aniciensi in Gallus, humbly requested the Holy Congregation of Rites to declare whether it was permissible for him and his successors to preside, wearing the stole and cope, in the choir of the aforementioned church, separated from the other parts, in which are the religious sisters with their students, while the Vespers of the Blessed Mother are being sung; for these sisters are bound by their rule to the Office of the Blessed Virgin, and it is contrary to the rubric to sing the Office of the day. However, the solemn presidency of the priest at the Vespers greatly benefits the piety of the faithful and the students. The Holy Congregation, having heard the report made by the undersigned Secretary, decided to reply: The aforementioned practice cannot be tolerated; therefore, to the petition: Negative. And thus they declared on September 26, 1868.

IX GADITANA. Since a doubt has arisen concerning the Office of the

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Precious Blood of Our Lord Jesus Christ, whether the conclusion of the hymns should be changed, the Master of Ceremonies of the Cathedral Church of Gaditana humbly requested the Holy Congregation of Rites to declare whether the conclusion of the hymns should be changed on this feast, so that they should conclude: "Jesus, to you be glory, who were born of the Virgin." The Holy Congregation, after hearing the report of the undersigned Secretary, decided to reply: Negative, or that the conclusion of the hymns should not be changed.

[*Latin ed. p. 47*]

47. And thus it was recorded, and it was ordered to be observed on September 26, 1868, in DIVIONEN. Reverend Father Renatus Bauzon, Titular Canon and Master of Ceremonies of the Cathedral Church of Divionen, presented to the Congregation of Sacred Rites that the aforementioned Chapter of Divionen consists of eight Canons; that the Divine Office is performed by the Canons in alternating turns; that, due to a grave necessity, on weekdays the conventual Mass is celebrated with a reading; and that, in the conventual Mass with a reading, if the humble Celebrant disagrees, the Canons consider themselves not bound to observe those things which are prescribed concerning genuflections in Title XVI, section 5. However, this concerns a matter of the highest importance, which affects the divine worship; therefore, he deemed it his duty to approach the same Sacred Congregation and to request that it deign to declare whether the Canons present at the conventual Mass with a reading are bound by the aforementioned Title XVI, section 5. And the Sacred Congregation, after consideration by the undersigned Secretary, decided that the following should be responded: The custom shall be observed. And thus it was recorded on September 26, 1868. OF THE MINOR ORDER OF SAINT FRANCIS OF THE OBSERVANCE OF THE RECOLLECTS. Father Natalis Neuteleers, Provincial Minister of the Province of Belgii of Saint Joseph of the Brothers Minor of the Observance of the Recollects, humbly presented to the Sacred Congregation of Rites the following point concerning the Rubrics, which cannot be observed in his Province without grave inconvenience, and therefore he humbly requested a dispensation: namely, the Ceremonial of Bishops, Book 1, chapter 28, paragraphs 2 and 13, prohibit the use of the organ on Sundays of Advent, in Lent, etc., as well as in Masses and Offices for the Dead. In the aforementioned Religious Province, everything which, according to the Ceremonial of Bishops, the Decrees of the Sacred Congregation of Rites, or the Rubrics of the Missal, is to be sung by the Religious, either in Mass or in the Divine Offices, is never sung by outsiders, even in the smaller convents or residences, where ordinarily there is only a very small number of Religious who can sing; hence, he requested of the same Sacred Congregation that the organ may also be used in the aforementioned Sundays, in Masses and Offices for the Dead, in order to sustain the

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singing, but with the condition that in the Office for the Dead, no antiphons, no verses, no responses, or anything else be taken up by the organ, but that the entire Office be sung completely by the Religious. The Sacred Congregation itself, having heard the report made by the undersigned Secretary, ratified the following response: The Rubrics shall be observed. And thus it was recorded on September 26, 1863. IN RHEDONEN. When certain doubts arose concerning the color of the vestments with which the Bishop is adorned when he presides over or attends the funeral rites, the Most Reverend Lord Godefridus Brossais - St. Mare, Archbishop of Rhedonen, presented to the Sacred Congregation of Rites...

[*Latin ed. p. 48*]

APPENDIX: The following questions were humbly presented: 1. Whether the black vestment, commonly called a soutane, should be worn? 2. Whether the black mozzetta should be worn? 3. Whether, in all circumstances, they should be entirely devoid of any ornamentation, both the alba and the rochet, with which they are worn? The Sacred Congregation, having heard the report made by the undersigned Secretary, and having maturely considered the matter, responded as follows: The custom should be observed. And so it responded on September 26, 1868, at RHEIMS. In most of the monastic chapels and in several parish churches of the Diocese of Rheims, there is found only one altar, where the Sacred Communion can be distributed. The question was raised whether, during prayers of forty hours, or when the Most Holy Sacrament is exposed for the veneration of the faithful, it would be permissible to distribute the Sacred Communion within or outside of Mass, before the Most Holy Sacrament exposed upon the altar, due to the great difficulty of acting otherwise, lest the Sacred Communion be denied to the faithful. This matter was reported by the undersigned Secretary to the Sacred Congregation of Rites, which, having considered the report made by the undersigned Secretary, and having also considered a written opinion from another of the Masters of the Sacred Ceremonies, responded as follows: The custom should be observed. And so it responded on September 26, 1868. TLASCALEN. The Most Reverend Dom Charles Maria Colina, Bishop of Tlascalen, in Mexico, having stated that the priests of his Diocese use the stole, not only in ecclesiastical functions, but also in preaching, humbly requested that the Sacred Congregation would deign to declare in what cases the stole should be worn by priests. And the Sacred Congregation, having heard the report made by the undersigned Secretary, and having also considered a written opinion from another of the Masters of the Sacred Ceremonies, declared: The stole should be worn by the priest when he celebrates or administers the sacraments, or when he performs some office for which the stole is required, or even when he preaches, if in that place there exists an unforgettable custom. And so it declared on September 26, 1868.

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TLASCALEN. The Most Reverend Dom Charles Maria Colina, Bishop of Tlascalen, presented to the Sacred Congregation of Rites the formula of the Roman Ritual concerning the administration of the Most Holy Sacrament: "May the Body of Our Lord Jesus Christ preserve your soul into eternal life. Amen." However, in the Roman Pontifical, for the Bishop administering the Eucharist, for ordinations, and also for the bridegroom, when the Bishop blesses the marriage, a different formula is found, namely: "May the Body of Our Lord Jesus Christ preserve you into eternal life, Amen." When the Bishop himself is uncertain as to which formula he should use when administering the sacred Synaxis to the faithful, and since the Ceremonial of Bishops does not indicate which, he humbly requested that the Sacred Congregation would deign to resolve this doubt.

[*Latin ed. p. 49*]

49 IX I. And the Sacred Congregation, after considering the report of the undersigned Secretary, decided that the Pontifical formula should be used in the Communion of those being ordained, while the Ritual formula should be used in other cases. And thus it decreed and ordered to be observed on September 26, 1868.

VICARIATE APOSTOLIC OF MARYSVILLE.

The Most Reverend Edward O'Connell, Apostolic Vicar of Marysville, requested of the Sacred Congregation for Religious Rites whether it would be permissible, for the spiritual benefit of the faithful, to administer the Benediction of the Most Holy Sacrament in the churches and public chapels of the aforementioned Vicariate, both the second and third hours after sunset. This request, reported to the Sacred Congregation by the undersigned Secretary, was answered by the Sacred Congregation itself: "The custom must be observed." And thus it decreed and ordered to be observed on September 26, 1868.

CIVITA CASTELLANA.

Although the constitutions of the Collegiate Church of the town of Vallerani, located within the territory of the Diocese of Civita Castellana, prescribe only that when the Archpriest celebrates Mass, Deacons and Subdeacons should perform their duties, yet in the same Collegiate Church, the custom prevails that even when the Archpriest celebrates Vespers, two younger Canons assist him with the cope, who, contrary to the custom of other Collegiate Churches, intone the antiphons in the choir before the Canons are prepared, and the Canons receive the incense before the Canons are prepared, as recorded in Acta, Tom. Xli, page C XXXIV. Since there is a difference of opinion among the Canons regarding these practices, in order to eliminate all controversy, the following questions

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were proposed to the Sacred Congregation for Religious Rites:

QUESTION I. When the Archpriest celebrates Mass or Vespers, should the constitutions regarding the ministers be observed, or rather, should the custom to the contrary prevail?

QUESTION II. In the affirmative case regarding the second part of the above question, is it appropriate that the prepared Canons intone the antiphons before the second dignity, or at least before the Canons who are not prepared?

QUESTION III. Must the prepared Canons conform to intoning the antiphons before the Canons who are not prepared, and must they receive the incense before these?

The Sacred Congregation, after considering the report of the undersigned Secretary, and after hearing the information of the Reverend Ordinary of the Diocese, after mature deliberation, decided that the Canons can only serve at the solemn Mass with singing, whether it be a Pluvial Mass or one celebrated with a cope, but in no way at Vespers, as has been decreed. And thus it decreed and ordered to be observed in the Collegiate Church of Vallerani on December 5, 1868.

NUCERINA.

The Reverend Anthony Mary Pettinari, Bishop of Nuceria, when he attends a solemnly sung Mass, whether it be a Pluvial Mass or one celebrated with a cope, wearing the mitre, asks whether he may immediately after the consecration, remove the mitre.

[*Latin ed. p. 50*]

50 APPENDIX I. to assume. The Master of Ceremonies who serves him follows this custom; however, since others hold a different opinion, and in order that all doubt may cease in this matter, he humbly inquired of the Sacred Congregation of Rites to which opinion he ought to adhere. The Sacred Congregation itself, after considering the response of the undersigned Secretary, decided to reply: "The ancient custom."

December 5, 1868. Regarding the celebration of a single Mass during processions?

The Sacred Congregation, after a careful examination of these doubts, replied as follows: "To I, affirmative to the first part, negative to the second. To II, affirmative in all respects, according to other Decrees, and especially in the Brief of Briocen, dated August 14, 1858, concerning Doubt II." And so it replied on November 5, 1868.

LINGONENSIS. RHEMEN.

Nicholas Prosper Magueré, Priest and Professor of Sacred Liturgy at the Seminary of Langres, humbly requested a solution from the Sacred

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Congregation of Rites regarding the following doubts:

DOUBT I. In the year 1869, the Feast of the Annunciation of the Blessed Virgin Mary falls on a Wednesday, during the Octave of the Lord's Supper. According to the rubrics concerning the Office and the Mass, it should be transferred to the second day after Sunday in Albis. The question is, whether the application of the Mass, which ought to be celebrated for the people on this feast, should be made during the Octave of the Lord's Supper, or, on the contrary, on the second day after Sunday in Albis? The reason for the doubt is that in France, by the Concordat of April 9, 1802, the obligation of abstaining from servile labor and hearing Mass on the Feast of the Annunciation has been removed.

John Baptist Principius Suillet, General Vicar of the Most Reverend Archbishop of Rheims, presented to the Sacred Congregation of Rites that, according to the custom of the General Vicars of Rheims for many years, he considered himself able to exercise the faculties granted to the Most Reverend Archbishop by the Holy See through various Indults, in his place and instead of the Archbishop himself, and that he had actually used this power in good faith for fifteen months, by assigning suitable priests of the Archdiocese of Rheims to bless the candles, observing the form and tenor of the Indult.

DOUBT II. In the same year, 1869, the Feast of Saint Mark occurs on the fourth Sunday after Easter. Furthermore, the question is raised whether the Processional Mass should be celebrated as prescribed in the Missal, after the fifth Sunday, in the color violet, without the Gloria and the Creed, with a ferial tone, even in churches?

But now, since it has been brought into question whether the aforementioned Orator has validly used this faculty, because the form and tenor of the Indult do not state that it is communicable to General Vicars, the question is raised whether he himself has validly used this faculty? And in the negative case, a remedy is requested, if necessary.

The Sacred Congregation, after considering the response of the undersigned Secretary, decided to reply: "Consult with the Most Reverend [Archbishop] regarding the requested remedy, and the Orator should not effect this [action] any longer."

[*Latin ed. p. 51*]

December 9, 1868. Concerning the aforementioned matters, the undersigned Secretary, having presented a report to His Holiness Pope Pius IX, His Holiness, having considered the request for clarification, granted permission according to the aforementioned Rescript. December 10 of the same month and year. SYROS. The Most Reverend Joseph Mary Albert, Bishop of Syros, humbly requested a solution to the following doubts from the Sacred Congregation of Rites:

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DOUBT I. Religious Orders of Minor Friars of St. Francis, and especially the Capuchins, assert that they possess a privilege by which a priest, who has celebrated the Office according to the double rite, may, within their churches, on days of the semi-double rite or on feast days, read the Mass for the Dead, even if this is contrary to the Decrees of the Sacred Congregation of Rites. Can the aforementioned priests conform to this asserted privilege?

DOUBT II. When a Superior of a Religious Order, or another acting in his place, receives the Ordinary Bishop at the entrance to his church, besides wearing the cope, must he also wear a stole? And if so, can he do this while accompanying the Bishop, walking alongside him, up to the inner door of the church, where he offers the aspersorium?

DOUBT III. Notwithstanding the Decrees to the contrary of the Sacred Congregation of Rites, can the custom, introduced for many years in the Diocese of Syros, be tolerated, namely, that when members of pious associations, accompanying public processions, walk with their own crosses, they wear a stole over the cope?

DOUBT IV. In a public, that is, general, Ordination, if a Deacon, through inadvertence, touches the Book of Gospels with his left hand, which was being offered to him by the Ordaining Bishop, is there any room for dispensation in this matter?

DOUBT V. Can the color yellow, whether made of silk or woven with gold, be used in place of white, green, red, and violet, especially in poorer churches where the vestments of each of the prescribed colors cannot be made?

DOUBT VI. Is it permissible to show a colored background, and especially red, in the fringes and cuffs of albs and other garments, under a transparent veil; and can transparent veils, representing crosses, ostensoriums, chalices with the Host, figures of angels, and other similar sacred objects, be tolerated on altar cloths, albs, and copes?

The Sacred Congregation, after hearing the opinion of another of the Masters of the Sacred Ceremonies, and after mature deliberation on the aforementioned matters, decided to respond to the proposed doubts as follows:

To I: Affirmative, in this case.

To II: Negative.

To III: Affirmative.

To IV: To the Sacred Universal Inquisition.

To V: Regarding vestments of the color yellow, negative; regarding vestments woven with gold, affirmative, but excluding the color violet.

[*Latin ed. p. 52*]

APPENDIX I. To V. I. Regarding the first part of the question, the Decree of August 17, 1833, issued by the Order of St. John of God, should be

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consulted; regarding the second part, it may be permitted. And thus it was responded on December 5, 1868. URGELLEN. In the most recent report on the state of the Church of Urgellen, transmitted to the Sacred Congregation of the Council, among other things, the following two requests are included: I. In the Crown of Aragon, there is a privilege of celebrating the Procession of the Body of Christ after Vespers, and of singing the Conventual Mass with the Exposition of the Most Holy Sacrament. In order that this institution of so great a mystery be carried out and celebrated properly, while the First Hour is sung in the choir, the solemn Mass is also sung in the chapel called the Corpus Christi, where the Provincial Councils were held, and in which the Host to be exposed is consecrated. And after the First Hour, the clergy come, and the larger chalice is solemnly carried to the altar. Similarly, this is done in Celsone. Here, however, it is exposed as in other Expositions, that is, from consecrated Hosts. Can this custom be tolerated? II. It is prescribed that the Most Holy Sacrament should not be reserved in two places in the same church. Here it is reserved in the main altar, and from the beginning of this century, a chapel has been built next to the Cathedral for the Most Holy Sacrament, which communicates with the Cathedral, but has its own door, through which the Viaticum is sometimes brought to the sick. Can it be permitted that it be reserved simultaneously in the main altar? When these requests were transmitted by the aforementioned Sacred Congregation to the Sacred Congregation of Rites for a suitable solution, this, with the reference of the undersigned Secretary, and after hearing the opinion of another of the Masters of the Apostolic Ceremonies, it was decided to respond to both requests: The custom of the place should be maintained. And thus it was responded on December 9, 1868. VESTANA. During the procession of the Body of Christ this year, a Subdeacon, to whom it was assigned to carry the cross of the Cathedral Chapter, protested before the Archdeacon and others of the same Chapter, stating that it would be unfair if the Regulars, walking without their own cross, should precede him. To eliminate any disputes, the current Pro-Vicar General of the Diocese of Vestali, with humble prayers, proposed the following two questions to this Sacred Congregation of Rites, so that it might deign to declare what should be done in the future, namely: QUESTION I. Whether Regulars, who, due to their dispersion, cannot erect a cross, can participate in the Processions of the Body of Christ (in which, according to the disposition of the Sacred Council of Trent, session 25, de Ref., de Regul. c. 13, they are required to participate), and also in other customary processions, walking under the cross of the Cathedral and Collegiate Chapter? QUESTION II. And, assuming an affirmative answer, whether in the aforementioned Solemnity of the Body of Christ, they should wear the sacred vestments in the manner of secular priests, and the surplice, as in

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other processions.

[*Latin ed. p. 53*]

)ix i. in these vestments, or according to the usual custom of their own habit? The Sacred Congregation, after hearing the report of the undersigned Secretary, and also the opinion in writing of another of the Masters of the Apostolic Ceremonies, decided to respond as follows: To I. They shall proceed under the Chapter cross. To II. They shall wear the surplice. And thus it was written and ordered to be observed on December 5, 1868. ARETINA. Since the month of December of the year 1868, the Most Reverend Joseph Giusti, Bishop of Arezzo, established the Congregation of Parish Priests of the City of Arezzo, and among the Constitutions approved by the same Ordinary for the aforementioned Congregation, in order to resolve any controversy regarding precedence, the following is also read: "Precedence among the aforementioned Parish Priests must be determined by the antiquity of the issuance of the respective Parish's Indult." Therefore, the Parish Priest of St. Peter, belonging to the Order of the Servants of the B.V.M., was assigned a place after the permanent Parish Priests, who had received the Indult. However, if he were to claim precedence from the day on which his presentation was confirmed by the Episcopal Curia, the secular Parish Priests petitioned the Sacred Congregation of Rites to declare whether the Parish Priest of St. Peter, who did not receive the Indult, should be given precedence over the Parish Priests who did receive the Indult. And the Sacred Congregation, after hearing the opinion in writing of another of the Masters of the Apostolic Ceremonies, in response to the report of the undersigned Secretary, declared: The custom favorable to the Parish Priests must be observed. And thus it was declared and ordered to be observed on March 20, 1869. ALBIENSI, or the THIRD ORDER REGULAR OF PENANCE OF ST. FRANCIS. The Religious of the Third Order Regular of Penance of St. Francis recite the Office and perform the Sacred rites according to the Roman-Seraphic Breviary and Missal. They are in charge of two churches. The first church is that of the Novitiate, which should be considered simply a conventual church, because before the institution of the Third Order it was vacant, and although the faithful are admitted there, it is only for the benefit of the Convent's Offices. Therefore, it seems that external priests, who come to celebrate Mass, should use the color of the vestments according to the general Rubric, according to which the color of the vestments of the feast must be observed on a double feast day, which is celebrated in the church. But the second church, called the Church of the Blessed Virgin Mary of la Dreeke, has become conventual, from which it is governed by the Religious who recite the Office in the choir, but it has been and remains a parish church for many years. One of the Religious, the Rector, is in charge, and around him many doubts arise due to the difference in the feasts that are

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celebrated in the Diocese of Albi and in the Franciscan family, according to a Brief that is issued annually in Rome by order of the General Vicar of the Third Order, to which the aforementioned members of the Third Order conform. Hence: DOUBT I. On Sundays and other...

[*Latin ed. p. 54*]

54 APPENDIX concerning festive days, which are celebrated with the participation of the people, up to the present time, the first Mass, which is always recited, is taken from the Office of the Religious, which includes a portion that is recited after Terce. The second Mass, which is solemn and offered for the benefit of the Faithful, is taken from the Diocesan Office; and likewise, the solemn Vespers for the people are chanted according to the Diocesan Breviary. Should this practice continue in the future, or not?

QUESTION II. Since it is not merely a conventual Church, is it required that a large number of priests, who gather there for the purpose of devotion and pious pilgrimage, must observe the general rubric concerning the color of vestments for the recited Mass, accepting the color appropriate to the Office and the Mass of the Convent, or may they celebrate the Mass of their own Diocesan Office with their own proper vestments?

QUESTION III. In the month of May, 23 parish priests arrive with their congregations to sing the solemn Mass. What should be observed in these Masses? Should they be celebrated according to the Diocesan Calendar, or according to the Roman-Seraphic Calendar? This application is rare, because there is a privilege for such Masses for pilgrims, allowing the singing of hymns to the Blessed Virgin, with only a few restrictions?

QUESTION IV. Does there exist an indult by virtue of which, those who use the Roman-Seraphic rite, wherever they celebrate, may say their Mass and wear vestments appropriate to it, even if in the Church where they celebrate, a Mass for another feast with double rank is being celebrated with vestments of a different color; and if such an indult exists, may the faithful avail themselves of this benefit?

I. QUESTION V. Can the Mass of the Saints only be recited outside a conventual Church?

QUESTION VI. If this is not permitted, which Mass should be said? Should it be a votive Mass for some Saint, or for the Dead, or should the Mass of the Church in which the Religious celebrates be said?

The Holy Congregation, having heard the aforementioned opinion in writing from another of the Masters of the Ceremonies of the Apostolic See, with the written opinion of the undersigned Secretary, after mature deliberation, decided to respond as follows:

Regarding QUESTION I, II, III: Adhere to the Calendar of the Third Order of St. Francis.

Regarding IV: It is not established.

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Regarding V: Negatively.

Regarding VI: Negatively for the first part; affirmatively for the second part, according to the Decree of Tudun, of September 7, 1816, regarding Question XVIII.

And thus it was written on March 20, 1869.

MELITEN. The Brothers of the Discalced Carmelites, residing in the Convent of the City of Conspicua in the Diocese of Meliten, customarily perform a public supplication of the Most Holy Sacrament outside the cloister, on the Sunday after the Octave of the Solemnity of the Body of Christ, after Vespers. Since this community is small, and consists of scarcely eight priests, besides a few lay brothers, in order to perform this ceremony more decently, it was customary to invite other priests from the secular clergy of the City of Conspicua to participate. However, in recent years, very few have accepted the invitation, partly because...

[*Latin ed. p. 55*]

55 IX i. In those places where the number of inhabitants is small, sometimes those who could attend do not come, or at least do not care to do so. Therefore, in order that these ceremonies might not be performed inappropriately, or be entirely omitted, it was necessary to invite some priests from another religious family to attend. This latter course of action being deemed preferable, in the year 1868, the Brothers Minor Observants of the city of Valletae requested that some of their priests accompany them in this supplication. These priests, gladly accepting the invitation, joined themselves to the community of Carmelites. When the aforementioned Prior arrived among them, it seemed fitting to the Prior to entrust certain parts of the ceremony to him, who therefore chanted the Vespers and carried the Sacrament in the supplication. Seeing this, the Canons of the Collegiate Church, to whose care the souls of the prominent city belong, were greatly displeased, considering that their rights were being violated by this action. Therefore, they presented a letter to the Prior of the Carmelites, in which they recounted the facts and stated that it was not the right of the Carmelites to invite members of another religious family to the supplication, and much less to entrust them with parts of the ceremony, since they themselves could not perform the supplication outside the cloister without the permission of the parish priest, and that if they did not abstain from such actions in the future, they would invoke the remedies of the law. However, the aforementioned Prior, believing that he was in the right, humbly requested a solution to the following doubt from the Sacred Congregation of Rites: Is it permissible for the Discalced Carmelites of the monastery situated in the city commonly called Burmola, also known as Conspicua, on the island of Melitensi, under the title of Saint Teresa, to perform a procession of the Most Holy Sacrament on Sundays within the Octave of Corpus Christi outside the cloister and through the streets of

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the parish, and to invite another religious family to participate in it, and to entrust to a member of this external family the chanting of the Vespers and the carrying of the Most Holy Sacrament, without the permission of the Bishop and the parish priest? The Sacred Congregation itself, after first obtaining information and the opinion of the Most Reverend Archbishop of Melitensi, and after also hearing the written opinion of another of the Masters of the Apostolic Ceremonies, decided to respond in writing to the aforementioned doubt, as follows: Affirmative. And so it wrote on March 20, 1869. VERCELLI. The Master of Ceremonies of the Archbishop of Vercelli humbly requests of the Sacred Congregation of Rites that, for the blessing of the throats, which takes place on February 3rd, blessed candles be used, which were blessed the day before, namely on the feast of the Purification of the Blessed Virgin, and asks: I. Is it necessary for the priest to wear, in addition to the stole hanging around his neck, another red stole, which is carried in the hands (as is done in that Archdiocese), as if to hold together the two candles that are used for this blessing, and which are held upright, with a cross placed in the middle of the stole, with which the forehead is touched during the act of blessing; or rather, should the candles be held only in the hands, and should they be...

[*Latin ed. p. 56*]

56 APPENDIX I. Whether, in the lower ranks, it is permissible to approach [the sacrament] with the intention of receiving the blessing, thereby acquiring merit in that very act of blessing? II. Whether the formula to be used in this blessing should be: "Through the intercession of the Blessed Virgin Mary, and of the Blessed Martyr Blaise, may God deliver you from all evil of the throat. Amen;" or rather, "Through the intercession of the Blessed Blaise, may God deliver you from all evil of the throat. Amen." The Holy Congregation, having considered the matter with the undersigned Secretary, has decreed as follows: In the case under consideration, only one stole should be worn by the priest, and only he should say: "Through the intercession of the Blessed Blaise, may God deliver you from all evil of the throat. Amen." And thus it was decided and ordered to be observed on March 20, 1869.

DUBIUM I. What readings should be recited in the second Nocturn of the Octave of the Blessed Virgin Mary of Help, where she is venerated as the Patroness of the Convent? Should it be as on the Feast of her Patronage, or rather, should the readings of the Feast day be repeated? The Holy Congregation, after considering the report of the undersigned Secretary, and also having heard the opinion in writing of another of the Masters of the Ceremonies of the Apostolic See, decided to answer the proposed questions as follows: To I. Affirmative, if it is expressly established by a privilege. To II. Negative. To III. Affirmative for the first part; negative for the second. And thus it was decided and ordered to be observed on March

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20, 1869.

ORDER OF THE MINOR FRATIARS OF ST. FRANCIS OF ASSISI (CAPUCHINS). BRIXIA. The Director of the Calendar of the Order of the Minor Fratiars of St. Francis of Assisi, Province of Gallia, requested from the Holy Congregation of Rites a solution to the following questions:

DUBIUM I. Is it still permissible for the Minor Friars to perform the votive Offices of the Blessed Conception of the Virgin Mary, of St. Francis, and of the Holy Mother Clare of Assisi, especially during the seasons of Advent and Lent, notwithstanding the decrees to the contrary?

DUBIUM II. Is it permissible for them to continue the recitation of the Office of St. John Francis, King Confessor, under the minor double rite, even though there is no certain record of an authentic concession of this Office?

The Most Reverend Monsignor Hieronymus Verzeri, Bishop of Brixia in Lombardy, reported that in a certain parish of his Diocese, a larger altar had been consecrated for some time, according to the Roman Pontifical. But when a new larger altar was built and duly consecrated, the former was removed to a side chapel of the same church. In this removal, the table was indeed separated from the pillars, but remained entirely intact, and the tomb of the Saints and Martyrs was clearly inviolate. However, following the liturgical prescriptions, he forbade anything sacred from being done upon it, until the following question is resolved by the Holy Congregation of Rites: Whether...

[*Latin ed. p. 57*]

IX. i. This table, being made in the form of a portable altar, can be used to celebrate the Sacrifice of the Mass upon it, without the need for a new consecration, or the substitution of another properly consecrated stone; and to the extent that this is not possible, the Bishop, as Orator, must humbly implore the necessary dispensation and sanction. The Sacred Congregation, having heard the opinion of another of the Masters of the Apostolic Ceremonies, decided to respond in writing to the question: To the negative; to the petition, however: Affirmatively; if it seems good to Our Most Holy Lord. Having made a report on the foregoing to Our Most Holy Lord Pope Pius IX, His Holiness deigned to graciously grant the requested dispensation and sanction. On March 20, 1869. GNESEN AND POSEN. The Most Reverend Archbishop of Gnesen and Posen humbly requested a solution from the Sacred Congregation regarding the following questions:

QUESTION I. From the most ancient times, votive Masses have existed in the Metropolitan Church of Posen, dedicated to the Most Holy Trinity, to the Most Holy Eucharist, to the Passion, to the Cross, to the Blessed "Rorate," to St. Albert, and to St. Francis, which are sung daily, distributed throughout the days of the week. These votive Masses are celebrated without regard to the observance of a feast, a Sunday, or a feria that may fall on

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that day, so that while the principal feasts of Dedication, Titulus, Patron, or other universal feasts of the Church are solemnly celebrated in the Cathedral, these votive Masses may nevertheless be celebrated, except only for the few feasts of Our Lord Jesus Christ. Can these votive Masses also, in the future, be sung in the same manner, even without any Apostolic privilege, or rather, should they be sung only on those days when the general rubrics permit, and on all other days should Masses of the Office be sung, corresponding to the intention prescribed by the Founders?

QUESTION II. Do the titular Bishops suffragans of Gnesen and Posen, who hold canonries in the Metropolitan Chapters of Gnesen and Posen, possess the same right as other canons to wear the *cappa magna* and to accompany the Archbishop to the Cathedral, either to celebrate a Pontifical Mass, or to assist at a Mass celebrated by another?

QUESTION III. Is it permissible for these Bishops to remain in their stalls while the Archbishop, wearing the *cappa magna*, enters the Cathedral with the entire Chapter, either to celebrate a sacred Pontifical Mass, or to assist at a Mass being celebrated by another, or while, after the Mass has been completed, he departs?

The Sacred Congregation, having heard the written opinion of another of the Masters of the Apostolic Ceremonies, decided, in response to the report of the aforementioned Secretary, to respond as follows:

To I: With a limitation; namely, that the aforementioned votive Masses cannot be celebrated on the First Sunday of Advent, on the Fourth Feria of Lent (Ash Wednesday), or on Palm Sunday.

[*Latin ed. p. 58*]

APPENDIX I. 58 Throughout the entire week, the Feast of the Resurrection and Pentecost, along with the following days, namely the Nativity of the Blessed Virgin, the Feast of the Lord, Epiphany, the Ascension, the Body of Christ, and all the days on which it ought to be celebrated according to the Diocesan Calendar, are to be observed. The Secretaries, having been gathered together today in the Vatican, after hearing the opinion of another of the Masters of the Apostolic Ceremonies, and after mature and accurate deliberation, wrote: "The Decrees of March 21, 1620, of March 7, 1636, and of April 16, 1831, in Murana, are to be observed. They entirely pertain to the matter at hand. Furthermore, the Clerks of the Seminary are to be observed. And so they wrote and commanded to be observed on March 20, 1869."

PACTEN. MONTIS REGALIS. The Most Reverend Lord Bishop PaXaverius Lorito, Master of Ceremonies of the Illustrious Collegiate Church of the Most Holy Savior, the Crucifix, of the City of Montis Regalis in Sicily, with the consent of his Ordinary, humbly requested that the following be brought before the Sacred Congregation. The following question was posed:

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DOUBT L: Does it occur that, on the Sunday within the Octave of the Assumption of the Blessed Virgin, on August 16th, a Cleric, who is not engaged in service at the Cathedral, but is devoted to the minor duties, should, according to the disposition of the Diocesan Synod of November 30, 1687, or rather, should he be granted the same honor and dignity, namely the Office of Saint Joachim, the Father of the Blessed Virgin, notwithstanding the general rubric concerning the occurrence of Feasts, and the Decree issued concerning Saint Joachim, which should be considered as a Patriarch, as declared by the Sacred Congregation?

Therefore, to resolve this controversy, the aforementioned Bishop proposed the following question to the same Sacred Congregation: Can the Synodal prescription favoring the Clerics, which is to be observed in the future, be transferred to the Office of the Diocese, that is, to Saint Roch, and can it be celebrated according to the rite of the universal Church?

[*Latin ed. p. 59*]

I. DOUBT II. Whether the dispensation granted by the Archbishop to transfer the Office of Patronage of Saint Joseph, assigned to the third Sunday after Easter, to one of the following Sundays, namely, the Octave of Saint Francis of Paula or the Feast of higher rank, is valid.

II. DOUBT III. Which of the two Offices, in the Feast of the Most Sacred Heart of Jesus, may be recited, that granted by Pius VI or by Clement XIII, and on which day should the Feast be assigned, either on the Friday after the Octave of the Most Holy Body of Christ, or on the following Sunday after the same Octave, and with what rank, namely, either with a double of the second class or a higher rank, and which Mass should be read, the "Miserere" or the "Egredimini"?

III. DOUBT IV. Whether the Feast of Saint Rosalia, Virgin, on September 4th, which is a less principal Patron, may be celebrated according to the established custom with a double of the second class, with the Octave, and with the "Symbolum" added to the Mass?

IV. DOUBT V. Whether the custom of celebrating the Feast of Saint Raphael the Archangel with a higher double rank may continue, and with what rank the Office of Dedication of Churches of Saints Peter and Paul should be celebrated, either with a higher or lower rank?

V. DOUBT VI. Whether the Dignitaries and Canons of the aforementioned Collegiate Chapter should observe the Decree issued by the Sacred Congregation of Rites regarding obedience to the Masters of Ceremonies in matters pertaining to the divine Cult?

VI. DOUBT VII. Whether any custom is valid, whereby the arrangement in the Calendar for the recitation of the Divine Office pertains to the first Dignitary, or whether it can be entrusted to anyone of the Chapter, or whether it pertains by office and duty to the Masters of Ceremonies as

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Directors of the Chapter, and to what extent, and regarding the first part, whether the Masters of Ceremonies have the right to correct errors?

VII. DOUBT VIII. Whether the custom is valid whereby the Dignitaries and Canons, in the blessing of the Candles, Ashes, and Palms, and in any Procession or blessing of the Most Holy Sacrament and of the Holy Cross of the Lord, which are solemnly performed each year on all the sixth days of March, proceed wearing the amice, stole, and pluvial over the rochet, or rather, whether they should use the amice, alb, stole, and pluvial?

VIII. DOUBT IX. Whether the custom is valid whereby the Choir does not genuflect when passing before the Altar where the Relic of the Holy Cross of the Lord is exposed, and the celebrant does not genuflect during the incensation, upon entering and exiting, and each time he passes before the middle of the Altar or from side to side, as in the incensation?

IX. DOUBT X. Whether, after the solemn Mass, an absolution can be given at the tomb, according to the disposition of our Founder, Archbishop Jerome Venero, on the Feast of Saint Jerome the Doctor, if it occurs on a Sunday?

X. DOUBT XI. Whether the ministers, while the solemn Conventual Mass is being sung, may privately recite the Canonical Hours?

XI. DOUBT XII. Whether a black pallium can be used in the solemn Commemoration and Exequies of the Dead at the Altar of the Most Holy Sacrament?

[*Latin ed. p. 60*]

60 APPENDIX I. DOUBT XIII. Can the votive Office of the Immaculate Conception of the Blessed Virgin Mary, recited in its half form throughout the year, be recited on all Sabbaths according to the rubrics, without the request of the Ordinary, in virtue of the following decree? "The votive Office of the Immaculate Conception of the Blessed Virgin Mary, in its half form throughout the year, has been granted to the Roman clergy and to the entire Church by a letter encyclical given at Caieta on February 2, 1849."

This doubt, having been presented to the aforementioned Sacred Congregation by the undersigned Secretary, and after having heard the written opinion of another Master of the Apostolic Ceremonies, the Sacred Congregation, after mature and careful consideration, decided to respond as follows:

I. Regarding the preceding, it is fitting to note that the Office of Saint Joachim should be transferred to the first free day.

II. The Feast of the Patronage of Saint Joseph should not be transferred, provided that the octave of Saint Francis occurs on that day, unless it has a special privilege; however, if another Office of greater rank or dignity occurs on that day, it should be transferred to the first free day, according to the general decree of September 10, 1847.

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III. The Office granted to the same Diocese must be recited, and on the day and with the rite specified in the grant, according to the decree of the City and the World of August 23, 1856.

IV. It can be tolerated, with due consideration and remembering the immemorial custom, to omit the symbol.

V. Affirmative to the first part; regarding the second, the Office of Dedication of the basilicas of the holy Apostles Peter and Paul must be celebrated with the rite of the lesser Double.

VI. Affirmative.

VII. The right to choose the person for the preparation of the Calendar belongs to the Bishop, or to the Chapter, or to the highest dignity thereof, according to custom; generally, however, it is entrusted to the Prefect of Ceremonies, who must prepare the Calendar according to the rubrics of the Roman Missal and Breviary, and the decrees of the Sacred Congregation of Rites.

VIII. Regarding the blessing of the Candles, Ashes, and Palms, the rubrics of the Roman Missal must be observed: in processions, the priest who carries the Most Holy Sacrament, whatever his dignity, must proceed wearing the amice, alb, stole, and cope. In the blessings, which are given either with the Most Holy Sacrament or with the Wood of the Holy Cross, the cope may be used over the rochet, if its use is customary; otherwise, the amice, stole, and cope may be used if the sacred ministers are not prepared; otherwise, it is not permitted.

IX. Negative: and the decree of the Sacred Congregation of Rites in Warsaw, May 7, 1746, paragraphs 12, and in Lucionen, May 23, 1835, paragraphs 1 and 2, should be consulted. And the Wood of the Holy Cross should be incensed three times by a priest who is not kneeling, but standing, even on Feria VI in Parasceve, according to the decree of the Sacred Congregation of Rites of September 28, 1837, in Mutina, number 14.

X. Negative, and the decrees should be observed.

XL. Nothing is to be added.

XII. Negative.

XIII. Negative.

And thus it was written and ordered to be observed on March 20, 1869.

(1) (1) See the *Inventione*, which is omitted here, Volume XI, page 340.

[*Latin ed. p. 61*]

MOST REVEREND MONSIGNOR. Most Reverend Father Charles Frederick Bianchi, Canon of the Metropolitan Basilica of Zadar in Dalmatia, and Director of the Diocesan Calendar, proposed the following questions to the Congregation of Sacred Rites: On the Feast of the Lord, on the Friday in the Consecration of Oils, which takes place in the middle of the Choir, the

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assisting Priest stands to the right of the Archbishop and acts with him in all that pertains to the infusion of balsam and oil, etc. This seems to be contrary to his ministry, since he is vested in a cope and should only attend to the Pontifical book and announce the presence of the Oils. It seems rather that all of this should be done either by the assisting Deacon on the right, or by the Deacon of the Gospels, who, since they are vested in a stole, can freely act with the Celebrant. Therefore, the following questions are asked: QUESTION I. Whether the assisting Priest, or rather the assisting Deacon on the right, or the Deacon of the Gospels, should assist the Archbishop in infusing the balsam and oil and in performing other similar actions during the solemn Consecration of Oils? QUESTION II. Where should the assisting Priest stand in order to be present at the Pontifical book, on the right or on the left of the Celebrant? QUESTION III. Where should the assisting Deacons and the Deacon and Subdeacon of the Office stand, in the case where nothing about this matter is found in the Pontifical? When the Archbishop gives a homily to the people in the Pontifical, he recedes from the altar by a greater distance, and, in order to be more easily heard, he sits with all the assistants above the steps of the sanctuary, with his back to the altar. From there, QUESTION IV. In what place should the assisting Priest, the Deacon, and the Subdeacon of the Office sit, in this case? It seems that the Priest should stand to the right of the Bishop, the senior assisting Deacon to the right of the Priest, and the Deacon of the Office to the right of the assisting Deacon; similarly, on the other side, the junior assisting Deacon should stand to the left of the Bishop, and the Subdeacon of the Office to the left of the assisting Deacon. The Sacred Congregation, having heard the report of the undersigned Secretary, and also the opinion of another from the Masters of the Ceremonies of the Apostolic See, having carefully considered the matter, decided to respond as follows: To Question I: In the Consecration of Oils, what the Pontifical assigns to the Archdeacon should be done by him; what is not assigned to him pertains to the Deacon of the Mass. To Question II: The Bishop, in the aforementioned Consecration of Oils, should stand in the middle between the Deacon and the Subdeacon of the Mass; the Archdeacon should stand on the side of the Subdeacon, that is, on the left of the Bishop, so that he can conveniently take the vessels of the Oils from the ministers and the book or Pontifical; the assisting Deacons should remain on either side of the altar, with their hands joined, standing and adoring the Sacrament. To Question III: As provided in the second [question]. To Question IV: The ceremonial arrangement of Bishops, C. 8, after the Gospel of the solemn Mass, should be observed. And thus it was written, declared, and ordered to be observed on March 20, 1869.

[*Latin ed. p. 62*]

62 APPENDIX I. MECHLIN. Since, from ancient times, in the Metropolitan Church of Mechlin in Belgium, two Canons, one wearing the *pluvialis*

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in the higher orders, and the other wearing the *rocchetto* and *mozzetta* in the lower orders, have assisted at the sacred ordinations performed by the Most Reverend Archbishop, the Ordinary of the place, and have served at the altar; and now this custom has changed, a doubt has arisen concerning the attire in which these two Canons are to assist at the ordinations which take place during the sung Mass. Therefore, the Dean of the Chapter of the aforementioned Metropolitan Church requested the Sacred Congregation of Rites to declare the following doubts:

DOUBT I. In what attire should two Canons assisting at the altar during an ordination which takes place during the sung Mass, be clothed when only the lower orders are conferred, namely, in the canonical attire, that is, with the *rocchetto* and *mozzetta*, as permitted by the Decrees of the Sacred Congregation of Rites of June 4, 1817, in one of the Doubts added to No. 2, and of September 12, 1857, in Mechlin, No. 27, or are they to lay aside the *mozzetta* and place the *superpellice* over the *rocchetto*?

DOUBT II. In what attire should two Canons assist the Auxiliary Bishop or other Bishop delegated by the Most Reverend Ordinary of the place, when the higher orders are conferred during the sung Mass, while deacons assist only the Ordinary Bishop, can these two Canons assisting the Auxiliary Bishop or other Bishop in the ordination, assist wearing the *pluviales*, as has been the custom from ancient times in the Metropolitan Church of Mechlin during ordinations, or can they assist wearing the attire of a deacon and subdeacon, as in the solemn Mass, namely, with the alb and dalmatic or tunic; or are the Decrees of the Sacred Congregation of Rites of August 27, 1707, in Bracharen, No. 2, of July 21, 1855, Vicariate Apostolic of Constantinople, No. 1, and of February 6, 1858, in Montespessulan, to be applied, so that they cannot assist in this attire of a deacon and subdeacon, but must assist as in the sung Mass in which only the lower orders are conferred?

The aforementioned Sacred Congregation, after considering the matter with the written opinion of one of the Masters of the Ceremonies of the Apostolic See, and having approved the doubts presented, replied as follows:

In the Metropolitan Church of Mechlin, two Canons must wear the *superpellice* over the *rocchetto* while assisting the Archbishop or Suffragan Bishop in performing the sacred ordinations, both in the higher and lower orders. And so it was written and ordered to be observed on March 20, 1869.

SAN MINIATO. In the Cathedral of San Miniato, the custom prevailed of not lighting two candles at least during the choral office, namely, the Hours of Prime, Compline, and Matins with Lauds, when some relic is exposed on the main altar with candles which burn throughout that day. However, the Most Reverend present Bishop of San Miniato considers this custom to

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be...

[*Latin ed. p. 63*]

DIX i. 63, he humbly requested that the Sacred Congregation for Rites declare whether, at the very least, two other lamps should be placed on the main altar during choral liturgical services. And the aforementioned Sacred Congregation, having also heard the opinion of another of the Masters of the Apostolic Ceremonies, declared, in a report signed by the undersigned Secretary, that, in addition to the lamps that shine around the relic placed above the altar of the choir, at least two other lamps are required on the steps of the altar, while the Divine Offices are performed in the same choir. And thus it was declared and ordered to be observed in the Cathedral Church of Saint Minias. On March 20, 1869, after hearing a report made by the undersigned Secretary, as well as a written opinion from another of the Masters of the Apostolic Ceremonies, after all matters had been carefully considered, it was declared: That those of the Third Order of Saint Dominic who live collegially are, by right, entitled to the use of the Breviary and the Missal, and to observe the rites and ceremonies of that Order, according to the decree of Pope Pius IV and other Supreme Pontiffs, as well as the Council of Grado. And thus it was declared on March 20, 1869. THIRD ORDER OF SAINT DOMINIC. According to the Indult for the reduction of feast days of April 9, 1802, the solemnity of the patron saints of any diocese and parish is to be celebrated on the nearest Sunday, either before or after. However, in the Diocese of Roermond, the practice prevailed of celebrating the transferred solemnity not only of the patron saint of the place where it is held, but also of the patron saint of the diocese, and that in all parishes, whether they have their own patron saints or not. In other places, in addition to the solemnity of the patron saint of the place, the solemnity of the patron or titular saint of the parish church is transferred. These different practices likely originate from different interpretations of the words of the aforementioned Indult: "the patron saints of any diocese and parish." Therefore, to eliminate this diversity of opinion, at the request of the Most Reverend Bishop of Roermond, the Sacred Rites Congregation... In 1833, the Third Order of Saint Dominic for the instruction of youth was established in France. Since the members of that Order live communally, in their own houses or monasteries, they have adopted the liturgy of the Order of Preachers, both in the recitation of the canonical hours and in the celebration of the sacred Sacrifice of the Mass, and in other ecclesiastical functions. When, in the last General Chapter of the Order of Preachers held last year, a question was raised as to whether the aforementioned members could do this without a special permission from the Apostolic See, the Most Reverend Father Lecuyer, the General Vicar of that Third Order, requested that the Sacred Congregation for Rites declare that his members are, by right, entitled to the use of the liturgy used in the Order of Preachers. The

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aforementioned Sacred Congregation, ROERMOND.

[*Latin ed. p. 64*]

APPENDIX I. 64. To the following proposition presented to the Congregation concerning the Propagation of the Faith, the following question was proposed: Regarding altars which have been broken, but afterwards repaired with cement, doubts have arisen, namely:

DOUBT I. Whether, by virtue of the aforementioned Indult, it is permissible to consecrate the solemnity of only one patron in each parish, namely, the patron of the proper place, if there is one, or of the diocese? And if the answer to this question is affirmative, whether it is permissible or necessary to proceed with the consecration by transferring the solemnity, whether it be the patron of the proper place, or the solemnity of the patron of the diocese, or the patron or titular of the parish church?

DOUBT II. If the answer to question I is negative, which other solemnities of patrons must or can be transferred?

The Holy Congregation, after mature and careful deliberation, and at the suggestion of the undersigned Secretary, decided to respond to the proposed questions: It is to be maintained that the Decree of Cardinal Caprara is to be followed, namely, that the solemnity of the patron of the diocese or of a particular city is to be transferred to the following Sunday. And thus it responded on March 20, 1869.

VICARIATE APOSTOLIC OF THE HEAD OF BONAE SPEI, EASTERN DISTRICT.

Most Reverend Father Moran, Bishop of Dardanen, and Apostolic Vicar of the Head of Bonae Spei, Eastern District.

When the aforementioned question had been transmitted by the aforementioned Holy Congregation to this Sacred Congregation of Rites for appropriate resolution, the same, with reference to the undersigned Secretary, decided to respond, after hearing the written opinion of another of the Masters of the Apostolic Ceremonies: The consecration of the first altar is to be considered valid, and therefore, the consecration of the second altar would not be invalid, if it were to be performed. And thus it responded on March 20, 1869.

TOLOSANA.

To the Archbishop of Tolosa, who inquired whether clerics might be permitted breviaries which consist of separate folios, the Sacred Congregation of Rites responded: Such clerics are not to be troubled, provided that these parts are kept together with the breviary. On March 20, 1869.

(1) The Decree of the Sacred Congregation is reported in Volume XI,

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page 418.

[*Latin ed. p. 65*]

65 FROM THE HOLY CONGREGATION OF THE COUNCIL, DECREED ON THE 20TH OF JUNE, 1878. SUMMARY OF THE CASE. In the Cathedral Church, a certain Francis had established a canonical benefice, granting the right to nominate successors through the male line, ad infinitum, to Anthony. From Anthony's descendants, the surviving brothers Felix and Stephen are currently living, both suffering from poverty, and each having a son enrolled in the minor orders. The first, Felix, having already received the Apostolic approval of his father, and being provided with the necessary regional documents, on April 8, 1865, obtained the right, after fulfilling the required duties, to retain the fruits of the benefice for eight years; and he did not cease to enjoy this, although that decree had never been formally put into effect by the Curia. Indeed, Felix and Stephen's father, Sempronius, in the year 1860, had presented a certain Priest, Anthony, for the vacant canonical benefice, in which the aforementioned institution was obtained, although the nomination had been revoked by Sempronius; and both he, and after his death, Felix, had received the revenues of the benefice. But in the year 1877, the benefice in question was entirely vacant, due to the granting of another canonical benefice to the Priest Anthony; and the other, Stephen, approached the Pontiff, stating that he had a son named Peter, who was fourteen years old, and had already received the two minor orders: that he was unable to provide for him, so that he might advance to the priesthood; therefore, he requested that the Pontiff would grant him a dispensation from the age requirement, and render him capable of succeeding to the canonical benefice. When the petition was presented to the Bishop, the Cathedral Chapter, having heard the matter in writing, opposed it, stating that the Acts, volume XII, page C XXXIV, 5, existed.

[*Latin ed. p. 66*]

66. The canonry was already designated for the cleric Francis, son of Francis, who is already twenty-two years of age and is not subject to military conscription. Peter, son of Stephen, is of a younger age and is subject to conscription. Several other pieces of information were requested by the Sacred Congregation concerning the age, character, and manner of life of the candidates, and after these were received, the matter was presented to the judgment of the Most Reverend Fathers.

ARGUMENTS OF THE CLERIC PETER.

It is stated beforehand that the Most Holy Canons, when considering the qualities that should be found in clerics for the purpose of promotion to offices and ecclesiastical benefices, generally require three things: namely,

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maturity of age, gravity of morals, and knowledge of letters. In the case of Peter, with the exception of the maturity of age, in which he is rightly dispensed, the other qualities are present. Indeed, there can be no doubt about his knowledge of letters, as the clearest proofs of this are found in the records of the institutions, and testimonies worthy of belief. To this, the Ordinary's information, which he wrote to the Sacred Congregation, should be added: "He certainly excels in intellect, despite his younger age." As for the gravity of morals, although some doubt may be raised about it unless the testimonies of the Cathedral Chapter and the institutions are considered, it is found that Peter "frequently attended the Holy Eucharist, avoided the company of the dissolute, showed due reverence to his superiors, and everyone speaks of him with praise, and he seems inclined towards a religious life." The Bishop also testified to this. As for the defect of age, it should be noted that Peter has already exceeded his fourteenth year, and is therefore suitable for receiving benefices that do not involve the care of souls.

Gloss, in cap. Si et tempore 9 de Rescr. in 6 verb. aetatem: "But since there is no distinction of orders in the Cathedral Church of B., and Peter's good morals, and also his intellect and fervent love of study, are to be favored by a dispensation from the Supreme Pontiff, as the Sacred Congregation judged in Balneoregien."

[*Latin ed. p. 67*]

CANONICAL EDICT 67. Dispensation granted on June 21, 1750, and in the city of Lucca on January 14, 1764, concerning the second doubt. By means of this concession of grace, no prejudice should be caused to any competitor, to whom no right has yet been acquired through presentation to the vacant canonry. For it is established by the testimony of the Bishop that the opponent would not be able to receive the order within a year, which is a requirement for the canonry. It is less common for the Holy See to grant a dispensation from this defect, except in the presence of a just cause. Indeed, a just cause exists in this case, namely, that the Church Cathedral might be provided with a more suitable beneficiary; whereas, on the contrary, Francis appears to be entirely lacking in literary knowledge. It must also be noted that the family of Francis has been able to enjoy the revenues of the benefice until now; therefore, even from the standpoint of equity, consideration should be given to the prayers of the cleric Peter.

OBJECTIONS CONCERNING CLERIC FRANCIS. It has been observed in his favor that, according to the established rule, in order to be chosen for a canonry in the Cathedral Church, one must be at least twenty-one years of age, so that within a year he may be promoted to the Sacred Order of Subdeacon. Thus, according to Trident, Session 24, chapter 12, concerning reforms, Ferraris, *Biblia*, canon, under the word "Canonicus," article 3, number 9, etc. This is only possible if higher orders are to be con-

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ferred. This provision also applies to canonries in Cathedrals, in which, as in the present case, no order has been conferred. Cardinal De Luca, in *Discourses*, 95, number 15, concerning benefices, writes: "However, from several declarations of the Holy Congregation, and from the practice of the Datary, it is understood that, even in canonries in Cathedrals, although no order has been conferred, at least the age must be required, so that he may be promoted to the first sacred order within a year." This confirms the resolution of the Holy See concerning the canonry in Grosseto, dated May 31, 1764. This is the law. However, in fact, the cleric Francis, having already reached his twenty-third year when presented for the vacant benefice by another of the patrons, and having been presented by his father, Felice, who certainly has the right to be named, nothing...

[*Latin ed. p. 68*]

68. It would seem that the canonry should be assigned in such a way as not to prevent the granting of the same benefice to Peter. Nor does it harm that Francis lacks the suitability prescribed by the Holy Tridentine Council in the aforementioned Session 24, chapter 12 concerning Reforms, because the Bishop reported that 1° his intellect is slow and barely mediocre; 2° that Francis has not yet begun the study of Theology, and therefore cannot be promoted to the order of Subdeacon within a year. For it is known in law that three degrees of knowledge are distinguished, namely, eminent, mediocre, and sufficient; and that in choosing or promoting individuals to ecclesiastical dignities and offices, a sufficient knowledge is required, which must be commensurate with the duties of the benefice and the qualities of the place where the beneficiary must live and reside. See argument 6 in cause SO, end of title VI on elections and the power of the elected. Fagnanus in C: "cum in cunctis," number 144 of the same title. Garcias, part 7 on benefices, chapter 7, numbers SS and following. The Holy Congregation of Councils, in the case of the Praenestina canonry, on June 16, 1787, in doubt 2, held that a canonry should be granted to a certain Joseph, although he seemed less suited for the priesthood due to his slowness of intellect.

However, Francis does not lack sufficient knowledge; this is evident from the testimony of the Bishop, who said that he possesses a mediocre intellect; this is confirmed by the testimony of the Canon of Theology who is responsible for teaching philosophy. From this testimony, it not only appears that Francis is making progress in philosophy, but also that he is currently engaged in the studies of Holy Theology. With these observations, all that has been objected to Francis is dispelled, and he possesses all the requirements and qualities prescribed by law, and has been presented at a suitable time, and there is no valid reason why the institution should not be granted to him instead of the cleric Peter. Although Francis may be less advanced in knowledge, he always surpasses Peter, not only because his vocation is

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very doubtful and uncertain due to his youth, but also because of the great harm that the Cathedral Church of B would suffer in spiritual matters; which, for a sufficiently long period of time, would be deprived of the works and service of a beneficiary. From these observations, it follows that Peter should be granted a dispensation.

[*Latin ed. p. 69*]

CANON 69: Age does not constitute a valid impediment. The Holy Father rarely grants dispensations from this impediment, unless there is a just and reasonable cause, which is entirely lacking in this case. Indeed, when it comes to the canonry of a Cathedral Church, it is more difficult to grant a dispensation, according to the resolutions of the Holy See in *Nullius Guastallae*, Canonry, March 31, 1794, and in *Pergulana*, Nomination and Dispensation, December 20, 1851. Furthermore, it must not be overlooked that it is monstrous for a boy to be enrolled among the canons, as stated in Cap. concerning irregularities, 23, Gloss. words *Pueri de Prole*, unless a most urgent cause requires a dispensation, according to Cap. *Tali* and Cap. *Innotuit, § Malta de eieci*. Moreover, the reason for granting a dispensation, when considering the canonry of a Cathedral Church, must pertain to the public good, or to the great benefit of the Church, or to the highest dignity of a person, according to *Spero! Decis* 109, n. 25. Finally, the injury to the rights of another must prevent Peter from receiving the benefit. For Francis, on the one hand, possesses the same right to the vacant benefice as Peter, since he was validly presented by another patron, namely, his father, Blessed Felice. On the other hand, he requires no dispensation, and therefore his right to obtain the canonry is established. Moreover, there is nothing to prevent his father, Felice, from still enjoying the benefits of the canonry, even though eight years have already passed, since Felice obtained it under grave necessity and with good faith, provided that he has never failed to fulfill the obligations attached to the canonry by others. With these arguments presented from both sides, the matter was brought before the Congregation: Should a dispensation be granted in favor of the cleric Peter, or rather, should the cleric Francis be appointed in this case?

RESOLUTION: The Most Eminent Fathers, having considered the question proposed to them, decided as follows:

[*Latin ed. p. 70*]

70. A canonry, negatively considered, pertains to the first part [of the requirements], affirmatively to the second, with prior dispensation regarding the acts [required]. And the Bishop should advise Felix to consult his conscience, having spoken the word with the Most Reverend [authority]. FROM WHICH YOU WILL GATHER! I. For the election to a canonry in the Cathedral Church that is vacant, it is required that the cleric be at least twenty-one years of age, so that he may be promoted to the order of subdea-

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con within the year. II. Such a disposition obtains in the canonries of Cathedral Churches, although no ordination is annexed to these. III. Knowledge is commonly distinguished into three degrees, namely, the highest, the average, and the sufficient. This last is considered sufficient for promotion to dignities and ecclesiastical offices, according to the measure of the benefit and the qualities of the place. IV. A dispensation of age is rarely granted by the Pope, unless a just and reasonable cause exists. V. A most urgent cause, whether it pertains to the public good, or to the great benefit of the Church, or to the highest dignity of a person, is required, so that a boy may be admitted to the company of canons. PRAISE AND GRATITUDE OFFERED ON THE TWENTIETH DAY OF JULY, 1878. Through summary prayers. The Chapter of St. Mary, on December 16, 1876, presented a petition to the Most Holy Prince, stating: "The Capitular Constitutions, confirmed by the Holy See in title 11, § 4, prescribe that — among extraordinary revenues..." COMPENDIUM OF THE MATTER.

[*Latin ed. p. 71*]

PARTICIPATIONIS 71. » Ad numerum huius capituli possunt etiam addi laudemiae et quindecimiae, et fructus archipresbyteratus et canonicatuum vacantium. De his fructibus, distributiones cotidianae dantur archipresbytero et canonicis ecclesiae interessentibus, sicut punctationes; massa communis refertur ad eandem massam. Laudemiae autem et quindecimiae, cum exacta fuerint in proximo capitulo, aequaliter dividuntur inter archipresbyterum et omnes canonicos proprietarios, licet absentes ab ecclesia, praesentes tamen in curia, quando erant illa solvenda. » Hoc capitulum, postquam haec enarrata sunt, proposuit tria dubia ad dirimenda, quaeque in calce scribimus. Cum a Sacra Congregatione requireretur ut idem referat quaenam fuerit praecedens observantia, respondit: nullum exemplum simile in actis capitularium inventum fuisse. Disceptatio synoptica. Ex dispositione iuris, can. 3 Cod. de iure emphytheutico, atque ex veteri consuetudine, statutum est, ut quando res emphyteutica ad dominum directum devoluta per novum emphytheusis contractum in alium transfertur, a novo emphitheuta emolumentum aliquod, seu pars pretii rei emphytheuticae, Domino directo persolvatur. Emolumentum huiusmodi, seu pars pretii, vulgari sermone laudemium nuncupatur. Aliquando tamen contigit, ut transeuntibus bonis emphytheuticis ad ecclesias vel loca pia, nulla Domino directo spes suppetat devolutionis, ob vetitam iisdem ecclesiis vel locis piis a Pontificiis sanctionibus bonorum alienationem, et ita quilibet consequendi laudemium aditus intercludatur. In hoc itaque casu, ne dominus directus ius suum amittat, et absque propria culpa detrimentum patiatur, praxis invaluit et ubique recepta consuetudo, qua fmgitur ut post lapsum annorum quindecim rei emphytheuticae distractio sequatur. Hac itaque causa, loco laudemiorum, inductae sunt quindecimiae, quae recurrente anno decimoquinto solvuntur, de quibus

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tamen nulla in iure fit mentio, sed consuetudine aut conventionibus.

[*Latin ed. p. 72*]

72. It is held that participation in laudemia and quindennia is considered an expense. See Cardinal De Luca, *De Emphyteusi*, disputation 5; *Rota*, before Seraphicus, decision 1401, number 4. Furthermore, it should be known that laudemia and quindennia are included among the civil fruits. See Fulgentius, *De Jure Emphyteutico*, title *De Laudemio*, question 21, number 1, and following; Lopez, *De Quindenis*, chapter 96, number 5; *Rota*, decision 98, numbers 11 and 12, before Ubaldo. And if the matter concerns a canonical prebend, these are counted among the canonical fruits and emoluments which are divided among the canons. Therefore, the *Rota* in *Romana Coadiutoriae* concerning quindennia and laudemia, decision 13, page 573, held that quindennia and laudemia are due to the canonical coadjutor of the Basilica of the Prince of the Apostles in Rome, not to a coadjutor, because all the fruits of the canonry had been reserved to the coadjutor by Apostolic letters. And the Sacred Congregation of Rites, in Cesena, on April 1, 1628, in a report by Nicol, regarding the term "quindennia," held that the payment of the quindennia should be made taking into account the prebends, and not the daily distributions.

FROM WHAT FAVORS THE PERCEPTION OF THE LAUDEMIA:

With these premises, it would seem that the canons, concerning whom there is doubt, can benefit from the distribution of laudemia and quindennia. For if they themselves enjoy all distributions, even extraordinary ones, through the coadjutor, then it should be said with greater reason that they are entitled to participate in the fruits. This is all the more to be accepted because coadjutors residing in the Curia represent the person of the coadjutor, and it is a firmly established principle in law that, in *L. Quod iussu alterius*, if someone acts by order of another, he is considered to be acting himself. It is, however, easier to admit this if the coadjutor, or the Archpriest, or any other canon is absent with the permission of the Holy Father, because in his presence, he should be considered present, and the same effect is produced in a fictitious case as is produced by the truth in a real case. See *L. Si filius et ibi not. Alex.*, *De Codicibus*. These things seem to be said with equal reason concerning jubilees, because even if they are absent, they nevertheless enjoy daily distributions, and are not at all restricted to residence. See the Sacred Congregation of Rites, in *Patavina Jubilationis*, June 9, 1714, book 64, folios 217; *Dubia Jubilationis*, December 17, 1718, to the 5th doubt - there - « Whether, notwithstanding...»

[*Latin ed. p. 73*]

"Concerning the jubilees, the question was asked: 'If someone is granted an indulgence [to be absent], are they obligated to reside [in the parish],

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even though they are not obligated to collect [the dues]? The response was: 'No, according to the decrees.'

FROM THINGS THAT ARE OPPOSED TO THE CORRECT UNDERSTANDING. However, the capitular constitutions suggest a different opinion. These constitutions, which were promulgated by the Apostolic Visitation, according to the decrees sanctioned by Pope Leo XII for all the churches of the city, and which were transmitted to the same Chapter on November 14, 1826, to be observed in the future, easily suggest to the reader that the laudemia [a payment to the chapter] and the quindennia [a payment made every fifteen years] should be divided equally between the archpriest and the resident canons, provided that they are present when these payments are made. However, the resident canons are those who possess the right to receive these payments, and such cannot be called coadjutors, who are merely fictitious canons. *Barbosa, de canon., cap. 29, n. 6 et seq.; Monet, de Option, canon., quaest. 8, n. 148; Gonzalez ad reg., 8; Cameli, gloss., 5 §. 9, n. 103.* Therefore, since the capitular constitutions inquire about the presence of the resident canon in the chapter when the laudemia and quindennia are paid, in order that they may benefit from them, it would seem that this law, although perhaps too harsh, should be observed by the canons, even if they have a coadjutor, whether they are present or absent without him, or with the permission of the Holy Father, or if they are deprived of a coadjutor and are absent without rudeness, provided that there has not been a specific dispensation from the Holy See, or if they are simply granted an indulgence. For where the law does not distinguish, neither should we distinguish. Having considered these matters, the matter was referred to the Most Reverend Fathers to decide what should be answered to the following questions:

I. Whether an archpriest or canon who is absent, with or without an indulgence, and who has a coadjutor residing in the chapter, is considered present for the purpose of receiving the distribution of the laudemia and quindennia in this case.

II. Whether those who have an indulgence to be absent from the city receive the distribution of the laudemia and quindennia as mentioned above."

[*Latin ed. p. 74*]

74. PARTICIPATION III. Concerning those who, though present in the choir within the aforementioned Basilica, do not receive the distributions given to those present. RESOLUTION. The Sacred Congregation, having considered the matter, on July 2, 1878, declared as follows: Regarding the first, second, and third questions: "Negative." FROM WHICH ONE MAY GATHER: I. In common parlance, it is called the "laudemium," that part of the price, or emolument, which is legally paid to the direct lord, when a thing held in emphyteusis is transferred to him, and is then transferred

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through a new emphyteutic contract to another. II. Since "the goods of the Church and of pious places cannot be sold," therefore, in order to protect the direct lord, access to receiving the laudemium would be prohibited, unless custom, silent in the law, had established that, after the lapse of fifteen years of the emphyteutic holding, a distribution would follow, and in place of the laudemium, a payment would be made every fifteen years. III. Neither canons who are absent, even though assisted by a coadjutor, nor those who reside outside of Rome with pontifical dispensation, nor jubilant canons, can enjoy the distribution of the laudemium and the payment every fifteen years. PENSION. On December 14, 1878. SUMMARY OF THE CASE. The cleric John... in the year 1871, having bid farewell to ecclesiastical service, resigned his canonry, which belonged to his family by right of patronage, at the Dataria (reserving for himself the pension of one hundred books per year). After disputes arose among the patrons regarding the election, the cleric Lucian obtained the canonry, by decree of the Most Holy Fathers on June 27, 1873, in which it is read: "The Most Holy Fathers benignly granted the grace that the benefice, or canonry, concerning which we speak, be conferred upon the cleric Lucian... and that the canonical letters of institution be issued by the Curia, with a pension of eighty books, to be assigned by the authority of the Apostolic See to John..., for the duration of John's life."

[*Latin ed. p. 75*]

75. When John, a pensioner, entered into the state of marriage, the Ordinary raised the question of whether he had lost, by this change in condition, the right to receive his pension. The Ordinary reported that the canonry was burdened with debts and that it was unsuitable for providing a pension; moreover, some patrons were opposed to the pension.

EVIDENCE IN FAVOR OF JOHN:

It was observed that John, the cleric, had not lost the right to this pension, which had been decreed to him by the Prince; and that, in order to obtain it, he had, from the beginning, presented himself to the Most Holy Father as not being at all suited for the ecclesiastical state. For this reason, John stated that he had petitioned the Pope, considering his own poverty and that of his family, to grant him an annual pension of 100 livres on the canonry.

Since it was already known to the Prince that John intended to embrace the secular state, and that he would therefore easily enter into marriage, it would seem that, in order that the concession made should not be considered futile, it should be said that, by this change in status, he had not lost the right to receive the annual pension.

Furthermore, the Rota decided in No. 39, part 5, volume 1, recent, "When a pension is assigned to someone as a layman, then he does not require

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another dispensation on account of bigamy or another similar defect." This is further confirmed by a rescript of the Most Holy Father from June 1873, in which no restriction is made, but the pension is granted to John for the duration of his life.

Indeed, the law, which states that married men should not be deprived of their pension, seems odious; and regulation 15 of the Juris dictates that hatred should be restrained and favors increased. Moreover, in law 3 of the Code of Constitutions of the Prince, it is prescribed that the Prince's benefices should be interpreted most fully; therefore, if there is room for interpretation, it should be in favor of John. And since the pension is very small, for which reason it is certain that the Prince never intended that he should remain in celibacy, and since, for the sake of maintaining the grace, whatever interpretation is most favorable should be adopted, as the Rota decided in No. 28 before Crescentius: "Indeed, as the laws proclaim, the Prince's benefice should remain."

Most of all, because the motivating cause, for which the...

[*Latin ed. p. 76*]

76. A script for a pension was granted, and this represents a state of poverty, in which he still perseveres, and in which this grace must continue. However, the fact that the benefit, according to the report of the Ordinary, has been adjusted in relation to the pension to be paid, is of little consequence; for in this matter, only the time for which the pension is reserved is considered. Thus, if the fruits of the benefit later diminish or increase, the pensioner should feel neither inconvenience nor advantage, but only these modifications should affect the benefit itself. If, however, some weight is to be given to this difficulty, it must be considered that, according to the practice of the Apostolic Chancery, residential benefits can be burdened by a pension up to half of the income, as stated in the decision of the Rota, no. 240, para. 1, before Olivario, Sacred Congregation of the Council, concerning pensions, February 26, 1825, §. Furthermore, it could be concluded that either the income of the canonry has been so diminished that, even after deducting eighty pounds, half of the income remains, and the pension is therefore to be paid in full; or, alternatively, the situation is different, and in that case, the pension should not be reduced, but rather equity demands that it be reduced in proportion to the diminution of the income, but not to more than half. Moreover, the dissent of certain patrons is of no consequence, because the pension was imposed by the Pontiff, who has supreme authority over benefits, as stated in *Cap. Propos. de concess. praeb.* Lotter, *de re benef.*, book 2, question 22, no. 13; Piton, *de controv. Patron.*, no. 100, no. 95, and as stated in Paris, *de resignat.*, book 2, question 4, no. 14; Fundat, *de Pension.*, chapter 25, no. 1, which states that it is necessary for the consent of the patron to intervene, as stated in the Sacred Congregation of the Council, in the case of Verulana, concerning

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pensions, March 20, 1830, §.

E. WHAT IS OPPOSED TO CLERIC JOANNES.

E X. On the other hand, it must not be overlooked that the laws clearly prohibit a married cleric from retaining an ecclesiastical pension, as stated in Chapter 1 of *De Cleric. coniug.* Barbosa, *Ius. Ecc. univers.*, book 3, concerning pensions, chapter 14, no. 50; Rota decision, no. 50, para. 10, recently; because ecclesiastical pensions, although not benefits, are nevertheless treated as such, since they are granted from ecclesiastical goods, and are generally granted only to clerics, as stated in the constitutions *Sacrosanctae* of Pius V and *Cum sacrosanctum* of Sixtus V. This is indeed true, so much so that less reputable Doctors...

[*Latin ed. p. 77*]

Concerning pensions, it is necessary to note that, in order that the ecclesiastical pension may be extinguished due to the assumption of marriage, the extinction itself is conceded by law in the marriage contract, as it involves an irreversible act, as stated in Riganti, *Regni* 58, *Cancel.* n. 4; Pirhing, *in ius canon.*, book 3, title 3, n. 11; Antonelli, *de iurib. et oneribus clericorum*, book 1, part 3, chapter 41, n. 5 and 6, notwithstanding the nullity of the marriage, provided that the nullity does not arise from a lack of consent, and much less, notwithstanding the consummation of the marriage, as is widely held in decree 30, n. 12 and 13, in addition n. 54, before Ansaldo. Therefore, if it is established that John entered into a conjugal bond, it must be said that, by law, he has lost the annual pension assigned to his canonry. It is futile to petition Somãa on this matter, because John told the Pontiff that he was in no way called to the ecclesiastical state; for the Pontiff knew that a cleric could lawfully and without penalty use a lay status, without losing the pensions or ecclesiastical goods reserved or granted to him. However, it appears that the rescript granted nothing other than consent to the reservation of the pension, and that for the duration of his life, and not that it would remain valid in the conjugal state; for which reason an explicit concession seemed necessary, as stated by Zamboni in his *Collectio*, volume 4, under the word "pension," § 2. Therefore, if this indulgence is not usually granted after the marriage contract has already been entered into, it cannot be argued, based on a simple conjecture, that the Pontiff, by the rescript, granted John the faculty of retaining the pension in the conjugal state. Even if the matter is doubtful, it seems that a conclusion should be reached in favor of the abolition of the pension; for its extinction is favorable, because, as Gigas states in *De Pens*, question 99, n. 4, it restores freedom to the beneficiary and to the rector, which is a priceless thing: since the pension is a certain burden and servitude imposed on the beneficiary and the rector; and its continuation is odious, as stated by

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Cardinal De Luca, *De Pension*, discourse 49, n. 7. Furthermore, the benefit has failed to bear the burden of the pension; and therefore, it seems that the obligation to pay the pension ceases, as stated by García s, *De Benef.*, part 1, chapter 5, n. 400, and following. *Rota decis.* 306, n. 22, part 10, recent.

[*Latin ed. p. 78*]

78. CONCERNING PENSIONS. Having considered the matters presented on both sides, the purpose was to resolve the doubt as to whether, with the marriage bond existing, John remained entitled to receive the aforementioned ecclesiastical pension in this case. RESOLUTION. After careful deliberation, the Sacred Congregation, on December 1, 1878, decided to respond: Affirmative. FROM WHICH THE FOLLOWING ARE GATHERED: I. Although rescripts and privileges, which are strictly to be interpreted according to the law, if the words are clear, or if they were granted by a papal decree (motu proprio), deserve a broad interpretation, and the concession should be considered as a proper benefit granted by the Prince: it is fitting that a concession granted by the Prince of benefits should remain in force according to canon 16 of the law. II. The Roman Pontiffs can impose temporary or perpetual pensions on any benefice, whether subject to active or passive patronage, because they possess supreme authority over benefices, so that it would be futile to doubt their power, if it is clear from their will. III. Although it is contrary to the sacred canons for a married man to enjoy ecclesiastical pensions, which, if they are not benefices, are treated as such, the dispensation in this regard does not exceed the authority of the Holy Pontiff. IV. It appears that the Holy Pontiff intended to derogate from the common law, when he granted John a pension for the duration of his life, knowing that John was not called to the ecclesiastical state, but would easily pass into the married state.

[*Latin ed. p. 79*]

79 FROM THE HOLY CONGREGATION OF BISHOPS AND REGULAR CANONICS, CONCERNING THE NATURE OF VOWS, OF THE HOUSE OF SAINT GILE, dated August 30, 1878. SUMMARY OF THE MATTER. When the Bishop A. of his Diocese transmitted a report to the Holy Congregation on December 16, 1876, he proposed the following question: "The Regular Canons of Saint Giles profess the Rule of Saint Augustine, but are they, by their own Constitutions, exempt from Episcopal jurisdiction? Is it the case that the profession of vows in this Institute can be considered solemn, as their Constitutions state, and as the Religious themselves hold? If it is not solemn, then the Religious would not be able to be promoted to the sacred Orders, under the title of poverty." This question was referred to the Holy Congregation of Bishops and Regular Canons for clarification. The Regular Canons exerted their utmost efforts to demonstrate the solemnity of their vows. They asserted that their religious house had

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enjoyed exemption from Episcopal jurisdiction since the year 925, because its members observed all the rules of the Order properly called, and also called their vows solemn. They confirmed this with Bulls and Constitutions, especially those of Alexander II and Innocent III, who on May 4, 1207, renewed the privileges already granted to the same Order by their predecessors. Furthermore, these Regular Canons, in their conduct as true Religious, on March 19, 1857, decreed that simple vows should precede solemn vows (1). And in addition (1) By the decree of March 19, 1857, whose beginning is "Let no one be ignorant," the Most Holy Father Pius IX wisely decreed that "...professions should be made..." However, this decree, to which the time of the Religious profession was attached, was not intended to invalidate the solemn vows, but rather to pertain to the form of the act; thus, if a profession was made otherwise, it would be illicit, but not invalid. Therefore, he prescribed that, after the novitiate was completed, if they were found worthy, they should receive the vows, which should include "Professi post triennium..." On February 7, the same Pope issued a Constitution, the beginning of which was, "Let no one be ignorant..."

[*Latin ed. p. 80*]

80 OF THE CANONS OF THE REGULAR CANONS state: "That if any religious person, having been dismissed from the rule and order, is excused from some necessity, until he wishes to return, he shall not be dismissed by the Ordinary (which would be sufficient if the vows were simple), but by the Holy Congregation, requesting secularization. So that the Ordinary may never presume to confer religious orders upon those who have made solemn vows, nor grant them the faculty of hearing confessions, nor appoint anyone from among them to parishes of the said order, without dismissal letters or the presentation of the superior, according to the Constitution of the Order, chapter XL." The Bishop, to whom the deductions had been remitted after the proceedings with the Canons, replied: "It is not disputed that the Convent of St. Giles V. formerly professed a completely regular life; which, however, cannot now be maintained, due to changed circumstances. For the ancient status of this family has changed, and the religious are subject to the Bishop by force of new Constitutions, which the Ordinary of that time (in the year 1774) ratified. And at the end of these Constitutions, the Bishop is called 'Antistes, to whom, as superiors, we owe religious obedience.' However, the Bishop produces several paragraphs of the Constitutions, from which he argues for Episcopal jurisdiction both internally and externally. But the same Bishop does not conceal the fact that the Canons are entirely certain that the solemn vows made by them are valid, according to ancient traditions and new Constitutions. He also observes that the deductions made by the religious are not entirely accurate, since the Bulls cited by them from the 11th, 12th, and 13th centuries have no present validity due to the changed conditions of the Convent. However,

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the decrees of 1862, which declare the profession invalid, must be considered. "Indeed, a solemn profession, solemnly emitted against the form, is entirely invalid and of no force, as praised by the decree. "Therefore, we, desiring to avoid, whether knowingly or unknowingly, any ambiguity in this matter of such importance, and to remove any pretext or color of a cause moved by new or old vices, even secular ones, and with proper and certain knowledge, and concerning those Apostates who, although they have fulfilled the requirements of proof and novitiation, have not remained in the religious family, in the Order, Congregation, or Institute, in which they emitted solemn vows, for three years... we decree and determine that no vows shall..."

[*Latin ed. p. 81*]

CANONICORUM REGULARIUM ETC. 81. The dispensation for secularization, as they say, has been granted by the Holy See; and this can be referred to the simple vows, especially if these are perpetual. The Holy Congregation sought the opinion of two Consultors on this matter; and we shall give below a brief summary of their views.

{Dispute concerning jurisdiction. It is impossible for Ordinaries to have their own rights and a certain jurisdiction over the churches and persons of their dioceses. Therefore, if the Bishop has exercised jurisdiction in this matter, both internally and externally, over those Canons, he could be assisted by the *centenaria*; which provides a better title to the property, as stated by De Luca, *De Canon*, book 11, no. 6, and by the Holy Rota, *Cor. Molines*, decree 962, no. 7. For the *centenaria* is that better title to property, by means of which everything is prescribed, everything is changed, and everything is acquired. This has the greatest force, both in civil and canon law, with regard to exemptions, according to Berardi, *Commentaria in ius Ecclesiae Universalis*, chapter V, paragraph 1. "In the Council of Trent, it is to be understood in such a way as to favor the Bishop, because of the easy return of each thing to its principles." Therefore, in order to make the Canons more subject to him, even with regard to internal administration, the Ordinary refers to the statutes. Among other things that can be adduced from the same chapter VII, no. 3, are the following: "More severe penalties, such as imprisonment and censure, shall not be imposed by the Most Reverend Prelate, unless first with the advice of two assistants, nor for more than eight days, unless with the consent of the Most Reverend Bishop, law X, no. 3. It belongs to the general chapter to ordain statutes and constitutions with the consent and approval of the Bishop." Finally, in these constitutions, the Bishop is called the mediating Superior, to whom the Regular Canons must render religious obedience." There is no doubt about the value of these constitutions, both because it is to be presumed that the Ordinary of that time approved them without the Apostolic approval, (1) and because on October 2, 1844,

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FROM THINGS THAT FAVOR THE BISHOP. (1) There is no doubt about the legitimacy of these agreements, because, as the Visitor says, the Bishop of that time, in accordance with the Tridentine Council, Session 25, chapter 8, concerning regular canons, could have subjected that religious family to himself, as if it were of the Apostolic See, 6.

[*Latin ed. p. 82*]

82. CANONIC REGULAR [members] have obtained implicit approval through the Most Holy and Religious Congregation. Indeed, when a Bishop presented certain extraordinary faculties to be exercised over the Canons Regular, the Holy Congregation denied these, strictly ordering the observance of the aforementioned Constitutions. To further demonstrate his ordinary jurisdiction, the Bishop recounts the canonical visitations made to the monastery on June 25, 1786, April 25, 1820, and October 15, 1834. Furthermore, practice reveals the following: 1. The Abbot is confirmed by the Bishop without the dispatch of a bull. 2. The Abbot does not grant letters of dispensation, but rather refers those seeking them to the Bishop, so that they may be subjected to examination as is customary. 3. The Bishop makes a canonical visitation of all the altars and the parish church, and then of the chapter. 4. The Abbot is not able to approve priests to hear confessions. However, there is nothing to prevent the solemn vows from being professed, which necessarily do not imply an exemption from the Bishop. Indeed, since exemption takes on the nature of a privilege, it must be clearly proven by the Order that claims it, as stated by Bouix de Iur. Regular, part. V, Sect. II, § 4: "Furthermore, each exempt religious Order has available the documents by which they prove their exemption, and in the case of doubt as to whether a particular Order is exempt, it is incumbent upon them to exhibit the diploma of exemption, because as long as the exemption is not proven, the ordinary jurisdiction is to be considered to remain." Although the Canons Regular, about whom we are speaking, had proven such an exemption up to the year 1774, nevertheless, after the aforementioned conventions, the Bishop considered that he could claim the subjection of these Canons to himself, supported by the centennial [tradition].

FROM MATTERS FAVORABLE TO RELIGIOUS ORDERS. Nevertheless, the Most Holy Congregation of the Holy Office and Religious has always considered the exemption of any convent to be valid, which has been formally approved by the Holy See, and in which the religious members pronounce three solemn vows. If these requirements are present, then a monastery is truly established; which, by the very law of the Council of Trent, Session 25, chapter 8, concerning reform, is exempt from ordinary jurisdiction, insofar as it does not belong to any congregation with other religious families, but is governed by its own superiors, and the aforementioned places are granted to the Apostolic See "or to Visitators,

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even if they are under the Metropolitan, in order that they may execute the aforementioned [measures] with care, even in dioceses in which they are not located, as delegates."

[*Latin ed. p. 83*]

CANONS OF REGULAR CANONS, ETC. 83, concerning the Ternani discipline. Since the religious state is a manner of communal living with the approval of the Church; in which the faithful, having made the three essential vows of poverty, chastity, and obedience, strive for Christian perfection; and because they have been exempted from the jurisdiction of the bishops, so that they may not be disturbed in the tranquil solitude of contemplative life. As it is clear from their own Constitutions, these canons make three solemn vows before their Superior, approved by the Holy See; it seems doubtful that they do not belong to a true religious Order, and that they should enjoy the exemption and other privileges. In this case, the Holy See reserves the right of visitation for internal discipline. SUMMARY OF THE OPINIONS OF THE CONSULTORS. It is to be understood that both the Bishop and the Canons agree that, in ancient times, the Regular Canons of St. Giles were true religious, that is, those who had professed solemn vows and were exempt from the jurisdiction of the Bishop. The Bishop raises a doubt based on a new provision in the Constitutions of the year 1774; which, according to his opinion, completely changed the status of the Convent. But even in the new Constitutions, mention is made of a solemn profession, which cannot be anything other than a profession of solemn vows; and as the Canons have always had such a profession, with the consent of the Bishop himself, and now have it. With this understanding, even those who have recently entered the novitiate have professed their vows. If the new Constitutions had changed anything in this matter, as the Bishop doubts, they should have clearly indicated it, which, however, has not been done. With this established, the Consultor says, there is no reason to doubt that the vows in question are solemn. Indeed, although there is no agreement among the authors regarding the difference between a simple vow and a solemn vow, the opinion of St. Thomas Aquinas seems reasonable: "A simple vow consists in a simple promise, while a solemn vow consists in a promise made simultaneously with an absolute and irrevocable delivery, and a reciprocal acceptance made by one who has legitimate authority," Billuart, Tractate on Religion, discourse 4, article 5. On the part of those making the vows, there is no doubt that the necessary conditions are present; there is indeed a promise, an absolute and irrevocable delivery; concerning which, never...

[*Latin ed. p. 84*]

84. The Regular Canons, suspecting the contrary, would have been without the untimely doubt of the Bishop. But that a reciprocal acceptance actu-

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ally took place from one possessing legitimate authority is evident because the superior of St. Aegidii possessed this authority before the new Constitutions, which changed nothing in this regard. Furthermore, the Consultor observed that the vows of the Canons of St. Aegidii are either null, or solemn. For a vow only obligates to the extent that the one making it intends to be bound; therefore, it either obligates according to the intention of the one making it, or it obligates in no way, according to the rule of law: "An act is only valid to the extent that the one acting intends it to be valid." And therefore, either the religious profession is valid according to the intention of the one professing, or it is completely invalid. Therefore, it appears that the vows of these Canons ought to be considered solemn, both in themselves, and in relation to their effects, both internally and externally. The Bishop's doubt, namely that the House of St. Aegidii, according to the new Constitutions, has undoubtedly submitted itself to the episcopal jurisdiction, was dispelled by the Consultor, who said that episcopal jurisdiction can coexist with a solemn profession. "Does not the majority of Nuns submit to the jurisdiction of Bishops, while their vows are entirely considered solemn?" And to make the matter more clear, it should be noted that exemption from episcopal jurisdiction is not required for religious status as a condition without which it cannot exist, nor does it pertain to its essence. For the essence of this [religious state] consists in an immovable condition of life approved by the Church, in which, through three vows of poverty, chastity, and obedience, and a certain rule, the Religious strive for perfection, Billuart, *Tractatus de statu religioso*, diss. 1, art. 2. Finally, the Consultor proposed a doubt regarding the new Constitutions, saying: "Could this Convent have surrendered itself to the jurisdiction of the Bishop in the year 1774 without the authority of the Holy Father, when for so many centuries it has enjoyed exemption? And could the Bishop have validly accepted such jurisdiction under those circumstances? Even if a centennial prescription is now presented in favor of the act, could this prescription have been established, when the Supreme Pontiff never had any judgment regarding such a transfer of authority from Himself to the Bishop?" Therefore, from what has been said, it is evident that Bishop A. could, indeed, ought to, have...

[*Latin ed. p. 85*]

CANONS REGULAR, ETC. 85. Professes of the Monastery of St. Giles, under the title of poverty, are to be arranged. Another consulter stated that the Canons of St. Giles expressly profess the rule of St. Augustine, and in this profession, they make three substantial vows of poverty, chastity, and obedience. And therefore, they are Canons Regular of St. Augustine; an order, without doubt, which is included among the religious orders approved by the Holy See. Indeed, it is well known that the vows which are properly made in the profession of a religious order approved by the

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Apostolic See, (1) have been and are solemn. This is clearly deduced from the declaration of Boniface VIII, who generally established, in chapter one, of the decree on the Vow, that only that vow ought to be called solemn which has been solemnized either by the reception of Holy Orders, or by an express or tacit profession made to one of the religious orders approved by the Apostolic See. Furthermore, religious vows, which ought to be solemn by reason of the nature of the Institute, as well as by the express declaration of the Constitutions, cannot, in recent times, have become simple, unless it has been brought about by some disposition and declaration of the Apostolic See. In this case, the Constitutions of that Convent also admit that the profession is solemn, and that the vows are solemn. They say, "The novices, whether before receiving the habit, or before making their solemn profession, shall devote eight days to spiritual exercises." Nor can any disposition of the Holy See be cited, by which it has happened that these vows have become simple, and by which the Constitutions, initiated in the year 1774, by which the Convent of St. Giles, (1) When Gregory XIII published the Constitution Ascendente Domino, "and with the fullness of power, as in similar cases," he established that the vows made, for example, by those professed from the Society of Jesus, were to be considered simple, "although substantial, because from this Institute and from our own declaration, they are considered to be truly substantial vows of Religion, and in that society, as in a religious order approved by the same See, they have been admitted to be and are, and are admitted by us, and in them, no one, except us and the Holy See, can grant a dispensation, nor can they cease in any other way, than by a legitimate dismissal from the Society."

[*Latin ed. p. 86*]

86. THE CANONS of the Regular Order, etc., were subject to the episcopal jurisdiction. Therefore, the Consultor concluded, since the Convent of St. Giles possessed a truly religious status, so now it retains it, on account of the explicit profession of the Rule of St. Augustine, which neither required, nor requires, new approval from the Apostolic See. With these premises, the matter was brought before the judgment of the Cardinals, to determine whether the Canons of St. Giles V. have professed solemn vows, and whether they are exempt from episcopal jurisdiction in this case.

RESOLUTION. The Sacred Congregation of Bishops and Regulars, after due deliberation, on August 30, 1878, judged it fitting to respond as follows: Affirmative to the first part; regarding the second part, it is the opinion: that His Holiness should be requested to appoint the Reverend Father Ballerini as a visitor, who must report to the Sacred Congregation.

PROCEEDINGS OF THE CASE. Having resolved the question regarding the solemnity of the vows, the other part of the doubt remained to be resolved, namely, the exemption of the Religious from the jurisdiction of the Bishop. For this purpose, a visitor was appointed, who would in-

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form the Sacred Congregation about the state of that religious family. The illustrious visitor, as was fitting, fulfilled his mandate, and after presenting many things, he proposed that the aforementioned Canons, who are now six in number, could be subject to the Ordinary of the Diocese by delegated authority, according to the Constitution *In parvis* of Innocent X. He stated that this dependence could continue until the number of them exceeds six, or at least reaches six, including those who have taken simple vows. And that this family, thus increased and associated with other houses of the same Rule, so that it forms a Congregation, or at least has a common superior or visitor, may be exempt from the jurisdiction of the Ordinary, according to the 25th Session of the Council of Trent.

RESOLUTION. Therefore, after again considering the matter under the formula: "Whether and in what manner the Canons of St. Giles V. are exempt from episcopal jurisdiction in this case," the Sacred Congregation of Bishops and Regulars, on March 7, 1879, gave the following response:

[*Latin ed. p. 87*]

CANONIC REGULAR, etc. 87 For the present, they are placed under the jurisdiction of the Bishop, as delegates of the Holy See, and in accordance with the intention; the intention being that the statutes be formed (1). FROM THE ABOVE, IT IS UNDERSTOOD: I. That a solemn vow, according to the opinion of the Doctors, consists in a promise, made simultaneously with an absolute and irrevocable tradition, and a reciprocal acceptance made by one having legitimate authority. II. Concerning solemn vows in the religious life, it is understood that nothing is lacking: provided that the intention of the one making the vow includes a promise and an irrevocable tradition; and that, on the part of legitimate authority, there is a legitimate acceptance; to this authority, nothing was lacking from the agreements made in the year 1774 with the Bishop. III. Since the act of the agent is only valid to the extent that the agent intends it to be valid, it must be said that he who intends to pronounce solemn vows in religious life, either does nothing, or truly pronounces solemn vows, both in themselves, and with regard to their effects, both internally and externally. IV. Religious, who pronounce solemn vows in an approved religious order, can be promoted by the Bishop to the sacred orders, under the title of poverty, without ecclesiastical benefits, or sacred patrimony. V. Therefore, the resolution concerning solemn vows in the religious life was a matter of the greatest importance, in order to alleviate anxiety concerning the sacred orders, to which the Regular Canons of St. Giles were promoted without sacred patrimony. VI. Exemption from episcopal jurisdiction is not required for religious status as a condition sine qua non, nor does it pertain to its essence, because episcopal jurisdiction can simultaneously exist with solemn profession, as is the case with nuns, of whose monasteries some are subject to Ordinaries. VII. By the Tridentine Council, Session 25, chapter

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8, concerning the regular clergy, it is possible for the Bishop to subject his jurisdiction to a religious community, as a delegate of the Holy See, provided that this community has not coalesced with any other religious family, and is governed by its own superiors or supervised by visitators. (1) Perhaps it should be noted here that, as has been authentically declared, the solemn vows are those which are pronounced by these Regular Canons.

[*Latin ed. p. 88*]

88. OF THE CANONS OF REGULAR CANONS, ETC. VIII. The Sacred Congregation of the Eastern and Regular Churches, which is accustomed to protect the exemption of Religious Orders, may prudently, for a reasonable cause, sometimes permit that a certain family of Religious be, for a time, subject to the Bishop, as to a delegate of the Apostolic See, and not as to the local Ordinary.

FROM THE SACRED CONGREGATION FOR THE PROPAGATION OF THE FAITH, INSTRUCTION OF THE SACRED CONGREGATION FOR THE PROPAGATION OF THE FAITH, CONCERNING THE MANNER IN WHICH BISHOPS OF THE NORTHERN STATES OF AMERICA SHOULD PROCEED IN KNOWING AND DECIDING CRIMINAL AND DISCIPLINARY CASES OF CLERICS.

Although the Plenary Council of Baltimore II, recognized by the Apostolic See, has decreed that a certain form of judgment, already previously sanctioned by the Provincial Council of St. Louis, should be observed in the handling of criminal cases of clerics by the ecclesiastical courts of the dioceses of the Northern States of America, experience has shown that this prescribed order of judgment is not always sufficient to prevent complaints from those who happen to be penalized by some punishment.

Indeed, it often happens in these latter times that priests, having been condemned by judgments initiated in this manner and with lengthy sentences, especially when removed from the office of pastor or missionary, have complained to their Prelates, and frequently have even appealed to the Apostolic See.

It is regrettable that it often happens that, after the records have been transmitted, more information, and that which is necessary, is lacking, and that, after all has been considered, serious doubts often arise concerning whether credence should be given or denied to the documents presented in these cases.

[*Latin ed. p. 89*]

INSTRUCTION 89. Having seriously considered all these matters, the Congregation for the Propagation of the Faith deemed it necessary to find a remedy for these inconveniences, and to promote justice, so that neither innocent clerics might be subjected to punishment through injustice, nor might any criminal evade the deserved punishment by means of a flawed

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legal process. This could easily be achieved if it were absolutely prescribed that all the prescriptions wisely established by the sacred canons be observed in ecclesiastical trials, especially those involving criminal matters, both for initiating and concluding them. However, considering that in the aforementioned regions of the United States, it is not easily possible to observe this, it was deemed necessary to provide for this situation in such a way that at least investigations into admitted crimes be carried out accurately, which are entirely necessary, before any punishment is imposed. Therefore, with the approval of His Most Holy Lord, Our Divine Providence, Pope Leo XIII, at the general meetings held on June 25, 1878, the Sacred Congregation decreed and strictly ordered that each Ordinary of the aforementioned regions, as soon as possible, convene a Diocesan Synod, and that, if this is not possible, at least five, or if that number cannot be obtained due to particular circumstances, at least three, of the most distinguished and, as far as possible, canonically learned priests be selected, and that a judicial council, or, as they are called, an investigative commission, be established for them, and that one of those chosen be appointed as its president. If, for some grave reason, a Diocesan Synod cannot be held immediately, then five or three, as mentioned above, ecclesiastical men shall be appointed by the Ordinary to perform the task in question. The principal duty of the commission thus constituted will be to review, properly investigate, and assist the Ordinary in determining the cases of crimes and disciplinary offenses of priests and other clerics, according to the norms that will soon be proposed. Therefore, those chosen for this task must strive to ensure that accurate investigations are carried out, that testimonies are presented, and that everything is inquired of the presumed guilty party, which is deemed necessary to discover the truth and to provide certain or sufficiently firm arguments for a just and prudent judgment to be rendered. And if the matter concerns the removal of a missionary,

[*Latin ed. p. 90*]

90. THE INSTRUCTION states that no one shall be dismissed from his office, unless at least three of the aforementioned members of the commission, having been appointed by the Bishop to investigate the matter, have heard the case and given their advice. The elected counselors shall remain in their appointed office until the next Diocesan Synod, at which time they will either be confirmed in their office or others will be designated. If, however, the prescribed number of counselors is reduced by death, resignation, or any other cause, the Bishop, outside of the Synod, shall appoint others to fill the vacancies, as previously stated. In cases being investigated, especially those in which the definitive removal of a missionary rector from his office is being considered, the judicial commission shall follow this procedure:

1. No investigation shall be initiated unless the Bishop has first clearly

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and precisely stated the cause for the potential dismissal, and the missionary rector himself prefers to have the matter brought before the Council rather than voluntarily relinquish his office.

2. Once the matter has been brought before the Council, the Bishop shall assign his general vicar, or another priest designated by him for this purpose, to prepare a written report on the case, including a detailed account of the investigation conducted thus far, and of the circumstances that specifically affect the case or its presentation.

3. The Bishop shall indicate a suitable place, date, and time for the meeting, and shall do so by letter to each of the counselors.

4. The Bishop shall also, by letter, summon the missionary rector in question to the designated place and time for the Council meeting, explaining, unless prudence forbids it (as in the case of a hidden crime), the cause for the potential dismissal in detail, and warning the rector to prepare a written response, supported by his reasons, to the points that have been presented in the exposition of the case, either orally beforehand or in writing at that time.

5. When the counselors are assembled at the appointed time and place, the Bishop shall instruct them to maintain silence regarding what is heard in the Council; he shall remind them that the investigation is not a judicial process, but is being held for that purpose, and that it should be conducted in such a way as to arrive at the truth with the utmost diligence.

[*Latin ed. p. 91*]

INSTRUCTION 9: It is necessary that each counselor, having carefully considered all matters, form an opinion as accurately as possible regarding the truth of the facts upon which the cause is based. He should also be warned not to do anything in the investigation that might expose himself or others to danger or harm, especially not to allow any opportunity for the publication of scandalous writings or for any other proceeding before a civil court.

6. The report on the cause should be read aloud before the Council by the official of the Bishop, who will also answer any questions raised by the president or by other counselors, through the president, in order to obtain a fuller understanding of the matter.

7. Then, the missionary rector should be introduced into the Council, who will read the response he has prepared, and will also answer questions in a similar manner, being given full authority to bring forward all that he deems necessary for his defense, within a time limit determined by the Council, which may be relevant.

8. If it should happen that the missionary rector, concerning whose cause the matter is being considered, does not wish to attend the Council, he should be summoned again by written notice, and a reasonable period of

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time should be given to him to appear, and if he does not appear on the appointed day, unless he is legitimately prevented from doing so, he shall be considered to be in contempt.

9. Once all of these things have been properly completed, the counselors should confer together, and if the majority of the counselors believe that there is sufficient evidence of the facts, each counselor should set forth his opinion in writing, with the reasons upon which he relies; the opinions should be compared; the proceedings in the Council should be recorded by the official of the Bishop, signed by the president in the name of the Council, and, together with the individual opinions, should be submitted in full to the Bishop.

10. If further investigation appears necessary or appropriate, on that same day, or on another day, as determined by the Council, witnesses should be summoned, whom the Council deems suitable, and the missionary rector should also be heard regarding those whom he wishes to have summoned.

11. Each witness should be examined separately and carefully by the president and by the other counselors, through the president, with the missionary rector being absent at first. No oath is required, but if the witnesses themselves do not object, and declare themselves willing, they should be asked to confirm what they have stated.

[*Latin ed. p. 92*]

92. When an instruction concerning an oath is given, and it is necessary to confirm such a disposition or declaration, a note of this should be made in the records.

12. With the consent of the witnesses, and under the guidance of the prudence of the Council, the testimony should be repeated before the missionary rector, who, if he wishes, may also examine the witnesses through the president.

12. Witnesses *pro causa* [in favor of the cause] should be examined in the same manner as witnesses *contra causam* [against the cause].

14. After the testimonies have been heard, let what was stated above in paragraph 9 be followed.

15. If the witnesses are unwilling or unable to assist the Council, or if their testimony does not yet sufficiently clarify the matter, then at least two members of the Council should be appointed who, by questioning the witnesses, visiting the places, or in any other way, will seek to obtain information to resolve the doubts, and they should present a report of their investigation to the Council, so that no means of ascertaining the truth with moral certainty are left untried, before proceeding to the pronouncement of judgment.

16. All documents brought before the court during the course of the

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judgment should be carefully preserved in the Episcopal Curia, so that they may be conveniently presented in the event of an appeal.

17. If it should happen that an appeal is made from a judgment rendered in the Episcopal court to the Archdiocesan court, the Metropolitan should proceed in the knowledge and decision of the case in the same manner.

Given in Rome, from the offices of the aforementioned Sacred Congregation, on the 20th of June, in the year 1878.

IOANNES CARD. SIMEONI, Prefect

IOANNES BAPTISTA AG-NOZZI, Secretary.

[*Latin ed. p. 93*]

93 FROM THE HOLY CONGREGATION OF THE INDEX: DECREE. On the feast day of Saint U, the 30th of June, 1879. The Holy Congregation of the Most Eminent and Most Reverend Cardinals of the Holy Roman Church, by order of the Most Holy Pope Leo XIII and the Holy Apostolic See, concerning the Index of books of pernicious doctrine, and their condemnation, proscription, expurgation, and permission throughout the Christian Republic, having met in the Apostolic Palace at the Vatican on the 4th of February, 1879, condemned and condemns, proscribes and proscribes, or orders that the following works be referred to the Index of Prohibited Books:

* *La Magia nel secolo decimonono.* Historical accounts, by Don Bernardino Negroni of Bologna. Bologna, 1872.

* *Aurore e Tramonti,* Poems by Tullia Martelletti. Imola, 1876. The author commendably submitted and disapproved of the work.

* *Vita di Vittorio Alfieri scritta da esso, ridotta ad uso della Gioventù con note e documenti per cura del prof. Gian Severino Perosino dottore in lettere.* The life of Vittorio Alfieri, written by him, adapted for use by the young, with notes and documents by the care of Professor Gian Severino Perosino, Doctor of Letters. Turin, 1877. The editor commendably submitted and disapproved of the edition.

* *La Bible.—Traduction nouvelle avec introductions et commentaires, par Edouard Reuss professeur à l' Université de Strasbourg.* The Bible. A new translation with introductions and commentaries, by Edouard Reuss, professor at the University of Strasbourg. Paris, 1876, etc. This work is condemned according to II Kings, Index of the Council of Trent.

* *Le Pouvoir des Papes depuis la proclamation du dogme de l' Infaillibilité, par le D. J. F. von Schulte etc. professeur à l'Université de Bonn, traduit de l'allemand par Et. Patru.* The Power of the Popes since the proclamation of the dogma of Infallibility, by the Reverend J. F. von Schulte, etc., professor at the University of Bonn, translated from German by Et. Patru. Paris,

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1879. In whatever language. Decree of the Sacred Office, February 14, 1879.

[*Latin ed. p. 94*]

94 DECREE. Therefore, no one, of whatever rank and condition, should dare to publish the aforementioned works in any language, or to publish, read, or retain them after they have been published; but such individuals are bound to deliver them to the Ordinary of the place, or to the Inquisitors of heretical depravity, under the penalties indicated in the Index of Prohibited Books. These matters, having been related to the MOST HOLY LORD OUR POPE LEO XIII through me, the undersigned S. L. C. from the Secret Archives, His HOLINESS approved the Decree and ordered it to be promulgated. In witness whereof, etc. Given in Rome on the first day of July, 1879. F. R. THOMAS M. CARD. MARTINELLI, Prefect. Fr. Hieronymus Pius Saccheri, Order of Preachers, Sacred Congregation of the Secret Archives. In place of the seals. On the 24th of July, 1879, I, the undersigned, Cursor, testify that the aforementioned Decree was affixed and published in the City. Vincentius Benaglia, Apostolic Censor.

[*Latin ed. p. 95*]

95 FROM THE HOLY CONGREGATION OF RITES OF VENICE. The Priest Joseph Frattin, of the Congregation of the Oratory of Venice, modern in the Church of the same Congregation, humbly, as Prefect of Ceremonies, for a proper declaration, proposed the following questions to the Holy Congregation of Rites: In the administration of the Holy Eucharist outside of the Mass, the rubric of the Roman Ritual prescribes a stole of the color appropriate to the office of that day. The question is whether the stole of the color of the Office, or the stole of the Mass, should be used: 1. On the fifth day of the Greater Week. 2. On the Vigils and Feasts of the four seasons, or on the second day of Rogations (or on the Feasts of Lent, where Octaves have been granted), which occur outside of a privileged Octave, if, according to the rubrics of the Breviary and the Roman Missal, the Office of the Octave and the Mass of the Vigil or Feast are celebrated. Furthermore, the same Holy Congregation, having heard the opinion in writing of another of the Masters of the Apostolic Ceremonies, and after considering a report from the undersigned Secretary, decided to respond as follows: The rubric of the Roman Ritual should be observed in both cases, and where the custom of administering the Holy Eucharist with a stole of white color to the faithful fulfilling the Paschal precept is prevalent, it is permissible. And thus it was written. On August 11, 1877. A. E. P. SABINEN. CARD. BILIO, S. R. C., Prefect. Locof Sigilli. Piae. Ralli, S. R. C., Secretary. The Modern Prefect of Sacred Ceremonies of the Church of the Congregation of the Oratory in the City of Venice, humbly submits the following questions

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to the Holy Congregation of Rites, for declaration:

[*Latin ed. p. 96*]

96. VENICE. Question I. Whether, in the funeral rites for a Bishop, Archbishop, Patriarch, or even a Cardinal, whether present in person or absent, or in the funeral rites for the Supreme Pontiff, absent in person, a black baldachin should be placed, or carried, over the deceased, or over the catafalque? And, inasmuch as the answer on the 5th of July, 1631, in Florence, was negative, what about the contrary custom? Question II. Whether the name of the Bishop should be said in the Canon of the Mass, and in other liturgical prayers, from the day of the knowledge, even if not officially received, of his election in the Consistory, or from the day he took possession of the Church, to which he was appointed by the Supreme Pontiff? Therefore, the Sacred Congregation of Rites, having heard the opinion of another of the Masters of the Sacred Ceremonies, and after considering the report of the undersigned Secretary, declared as follows: Regarding I. The established custom should be eliminated as an abuse. Regarding II. From the day he took possession, either by the Bishop himself, or by his Procurator. And thus it was declared and written. On the 4th of July, 1879. D. CARD. BARTOLINIUS, Prefect of the Sacred Congregation of Rites. Ralli, Secretary of the Sacred Congregation of Rites. Copies presented are in agreement with the originals exhibited for examination. Venice, from the Patriarchal Curia, on the 16th of July, 1879. Jos. Can. Zuannich, General Vicar.

[*Latin ed. p. 97*]

97. BY THE DIVINE PROVIDENCE OF OUR MOST HOLY LORD LEO XIII, POPE, AN ENCYCLICAL LETTER. TO THE PATRIARCHS, PRIMATES, ARCHBISHOPS, AND BISHOPS OF THE ENTIRE CATHOLIC WORLD, POSSESSING GRACE AND COMMUNION WITH THE APOSTOLIC SEE. To the Venerable Brothers, Patriarchs, Primates, Archbishops, and Bishops of the entire Catholic world, possessing grace and communion with the Apostolic See. LEO XIII. To the Venerable Brothers, greetings and the Apostolic Benediction. The Eternal Father's only-begotten Son, who appeared in the world to bring salvation and the light of divine wisdom to the human race, has conferred a great and wondrous benefit upon the world; for, about to ascend again into heaven, He commanded His Apostles to go and teach all nations (1); and He left behind the Church, which He founded, as a common and supreme teacher of the people. For men, whom truth has freed, must be preserved in truth; and the fruits of heavenly doctrine, by which man has attained salvation, would not long endure, unless the Lord Christ had established a perpetual magistracy for instructing minds in the faith. The Church, indeed, having fulfilled the commands of its divine Author, both by upholding the

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promises and by imitating charity, has so perfected its work that it always seeks this, and desires above all else, to teach concerning religion and to contend perpetually against errors. To this, certainly, belong the diligent labors of individual Bishops; to this also pertain the decrees of Councils (1).

(1) Matth. XXVIII, 19. Acta, tom. XII. cap. XXXV. 7.

[*Latin ed. p. 98*]

98. The Encyclical Letter, along with the laws and decrees, and especially the daily concern of the Roman Pontiffs, rests with those who, as successors to the blessed Apostle Peter, Prince of the Apostles, possess both the right and the duty to teach and to strengthen the brothers in the faith. For, as the Apostle warns, through philosophy and empty deception (1), the minds of the faithful are often deceived, and the sincerity of faith is corrupted in men. Therefore, the supreme pastors of the Church have always considered it their duty to promote with all their strength the true knowledge of things, and also to provide with singular vigilance that all human disciplines, especially philosophy, from which a large part of the correct understanding of other sciences depends, be brought into conformity with the norm of the Catholic faith. We ourselves, among other things, briefly reminded you of this, Venerable Brothers, when we first addressed you all through Encyclical Letters; but now, by the gravity of the matter and the condition of the times, we are compelled to speak again with you about the manner in which philosophical studies should be undertaken, so that they may be suitably aligned with the good of the faith, and also be in harmony with the dignity of the human sciences themselves. If anyone should consider the harshness of our times, and reflect on the reasons for the things that are done publicly and privately, he will surely find that a fertile cause of evils, both those that oppress us and those that we fear, lies in the fact that false knowledge about divine and human things, which has long since spread from the schools of philosophy, has permeated all orders of society, and has been received by the common consent of many. For it is inherent in human nature to follow reason in action; therefore, if reason errs, the will easily falls into error as well: and thus it happens that the perversity of opinions, which has its seat in the intellect, influences human actions, and corrupts them. On the contrary, if the minds of men are sound, and firmly grounded in solid and true principles, then many benefits are produced for the public and private good. — We do not, however, attribute so much power and authority to human philosophy that we judge it to be equal in every way to the task of repelling or eradicating all errors: just as, when the Christian religion was first established, it was not spread through persuasive words of human wisdom, but through the admirable light of faith, through the manifestation of the Spirit and of power (2), so that the world might be restored to its ancient dignity; so also, at the present time,

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by the omnipotent (1) Colossians I, 8. (2) 2 Corinthians I, 4.

[*Latin ed. p. 99*]

ENCYCLICAL LETTER 99, it is chiefly through the virtue and help of God that we must hope for the conversion of mortal minds, freed from the darkness of error. But neither should the natural aids be scorned, nor postponed, which, through the benefit of divine wisdom, which arranges all things with firmness and gentleness, are available to the human race; and among these aids, the proper use of philosophy is paramount. For the light of reason was not implanted in vain by God in the human mind; and it is far from the case that the light of faith, when added, extinguishes or diminishes the power of understanding, but rather it perfects it, and, with increased strength, makes it capable of greater things. Therefore, the very reason of divine Providence demands that, in bringing peoples back to faith and to salvation, help should also be sought from human knowledge; and the industry, which is probable and wise, and which has been established in this manner, is testified to by the most illustrious Fathers of the Church, as the monuments of antiquity attest. For they were accustomed to attribute not a few, nor insignificant, parts to reason, which the great Augustine has briefly encompassed, attributing to this science that from which the most wholesome faith is born, is nurtured, defended, and strengthened (1). And indeed, philosophy, if rightly used by the wise, in a certain way prepares and fortifies the path to true faith, and suitably prepares the minds of its students to receive revelation; for which reason it has not undeservedly been called by the ancients, either a preliminary introduction to the Christian faith (2), either a prelude and aid to Christianity (3), either a teacher to the Gospel (4). And certainly, the most benign God, in matters pertaining to divine things, has not only revealed those truths through the light of faith, to which human intelligence is incapable of reaching, but has also manifested some, which are not entirely impervious to reason, so that, with the authority of God added, they may be immediately and without any admixture of error, made known to all. From this it has come about that certain truths, which are either divinely proposed for belief, or are closely connected with certain doctrines of faith, have been known, demonstrated, and defended by the wise men of the Gentiles, simply by the light of natural reason. For the invisible things of Him, as the Apostle says, are clearly seen, being understood by the things which are made, even His eternal power and (1) *De Tria*, Book XIV, chapter 1. (3) Origen, *Ad Greg. Thaum.* (2) Clement of Alexandria, *Stromata*, Book 1, chapter 16; (4) Clement of Alexandria, *Stromata* I, chapter 1. VII, chapter 3.

[*Latin ed. p. 100*]

In the ENCYCLICAL LETTER *Divinitas* (1); and the nations which do not have the Law... nevertheless demonstrate the work of the Law writ-

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ten in their hearts (2). However, this is true, and even explored by the wisest among the Gentiles; it is therefore most fitting to turn this to the advantage of revealed doctrine and to show that even human wisdom, and the testimony of adversaries, supports the Christian faith. This method of proceeding is not recently introduced, but is an old one, and frequently used by the holy Fathers of the Church. Indeed, these venerable witnesses and guardians of religious traditions recognize a certain form, and almost a figure, of this very thing in the example of the Hebrews, who, when about to depart from Egypt, were commanded to take with them silver and golden vessels from the Egyptians, along with precious garments, so that, with a sudden change of use, those furnishings, which had previously served ignominious rites and superstition, might be dedicated to the true God. Gregory of Nazianzus (3) praises Origen for this very reason, that he skillfully extracted many passages from the opinions of the Gentiles, as if taking weapons from the enemy, and with singular skill turned them to the defense of Christian wisdom and to the ruin of superstition. And a similar method of disputation is approved and praised by Gregory of Nazianzus (4), then by Gregory of Nyssa (5) in Basil the Great; Jerome, moreover, highly commends it in Quadratus, a disciple of the Apostles, in Aristides, in Justin, in Irenaeus, and in many others (6). Augustine says, "Do we not see how Cyprian, the most excellent doctor and most blessed martyr, departed from Egypt laden with gold and silver and garments? How much frankincense? How much Victorinus, Optatus, Hilary? If I were to speak of the living, how many countless Greeks?" (7) But if natural reason first cultivated this fertile field of doctrine, before it was made fruitful by the power of Christ, it certainly produces a much richer harvest after the grace of the Savior has restored and increased the native faculties of the human mind. Does not everyone see that a clear and easy path to faith is opened through this kind of philosophizing? However, the usefulness derived from this method of philosophizing is not limited to these bounds. And truly, the eloquence of divine wisdom severely reproaches the folly of those men who, from the things that appear to be good, were unable to understand Him who is (1) Romans 1:20. (5) Canons, I, Jamb. 3. (2) 1 Peter 2:11-15. (6) Epistle to Magnus. (3) Panegyric Oration to Origen. (7) On Christian Doctrine, Book II, chapter 40. (4) Life of Moses.

[*Latin ed. p. 101*]

ENCYCLICAL LETTER 101, nor, considering their works, did they recognize who the author was. (1) Therefore, in the first place, a great and outstanding fruit of human reason is attained, namely, that it demonstrates God: for from the magnitude of the species and of creation, the Creator of these things can be clearly seen. (2) — Then, reason shows that God singularly excels in the fullness of all perfections, especially in infinite wisdom, in which nothing is hidden, and in perfect justice, which a wicked inclination

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can never overcome; therefore, God is not only true, but He Himself is also truth, and He knows neither how to be deceived nor how to deceive. From this, it clearly follows that human reason should reconcile the fullest faith and authority of the Word of God. In a similar way, reason declares that the Gospel doctrine has emanated from its very origin, through certain and wondrous signs, as certain arguments of true truth: and therefore, all who add to the Gospel do not add it rashly, as if following learned fables, (3) but rather, with reasonable obedience, they subject their understanding and judgment to the divine authority. It is also understood to be of no small value that reason places within clear view the Church instituted by Christ (as decreed by the Vatican Council), because of its admirable propagation, its outstanding holiness, and its inexhaustible fruitfulness in all places, because of its Catholic unity and its stability; this is a great and perpetual reason for credibility, and an irrefutable testimony of its divine legation. (4) With such solid foundations established, the continued and manifold use of philosophy is still required, so that sacred Theology may embrace and adorn the nature, habit, and essence of true science. In this most noble of disciplines, it is greatly necessary that many and diverse parts of heavenly doctrine be gathered together into one body, so that, arranged appropriately in their respective places, and derived from their own principles, they may cohere with a fitting connection; finally, so that all and each may be confirmed by their own invincible arguments. — Nor should we pass over in silence, nor consider of little importance, that more accurate and comprehensive knowledge of the things that are believed, and of the very mysteries of faith, should, as far as possible, be attained with a clearer understanding, as Augustine and other Fathers have praised and striven to achieve, and as the Vatican Council itself (5) has declared to be a most fruitful endeavor. Indeed, to know...

(1) Wisdom XIII, 1.

(2) Wisdom XIII, 5.

(3) 1 Peter I, 16.

(4) Constitution on the Dogma of the Catholic Faith, chapter 3.

(5) Cited Constitution, chapter 4.

[*Latin ed. p. 102*]

02 ENCYCLICAL LETTER: Those, certainly, attain a fuller and easier understanding of these matters who, combining a life of integrity and a study of faith, apply their intellect, refined by philosophical disciplines, especially since the Vatican Council teaches that such an understanding of sacred dogmas is to be obtained both from the analogy of those things which are naturally known, and from the connection among the mysteries themselves and with the ultimate end of man (1). Finally, it also pertains to philosophical disciplines to defend divinely revealed truths and to re-

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sist those who dare to attack them. In this regard, philosophy is greatly praised because it is considered a bulwark of faith and a firm defense of religion. Indeed, as Clemens of Alexandria testifies, the doctrine itself is perfect and requires no Savior, since it is the power and wisdom of God. Moreover, Greek philosophy has not made truth more powerful; but, by weakening the arguments of sophists against it, and by repelling deceitful snares against truth, it has been called a fitting hedge and rampart (2). Indeed, just as the enemies of the Catholic name, preparing to wage war against religion, often borrow their warlike preparations from philosophical reasoning, so also the defenders of divine knowledge draw more from the resources of philosophy, so that revealed dogmas may be able to defend themselves. And it is certainly to be considered a triumph of the Christian faith that the weapons of its adversaries, prepared by the arts of human reason to cause harm, are powerfully and swiftly repelled by human reason itself. As the Apostle to the Gentiles himself used in the contest of religion, St. Jerome recalls, writing to Magnus: "The leader of the Christian army, and the invincible orator, Paul, acting on behalf of Christ, even twisted a chance inscription into an argument for faith: for he had learned from the true David to extract the sword from the hands of the enemy, and to cut off the head of the most arrogant Goliath with his own horn" (3). And the Church itself not only encourages, but commands Christian teachers to seek this defense from philosophy. Indeed, the Council of Lateran V, after establishing that every assertion contrary to the light of faith is entirely false, because it does not contradict truth at all (4), urges philosophy professors to diligently engage in refuting deceptive arguments; for, as Augustine testifies, if reason...

(1) Ibid.

(2) Strom, lib. I, c. 20.

(3) Epist. ad Magn.

(4) Bulla Apostolici regiminis.

[*Latin ed. p. 103*]

ENCYCLICAL LETTER 103: The authority of the Divine Scriptures, however acute, is deceived by a false analogy; for it cannot be true (1). In order that these truths, which we have mentioned, may yield their precious fruits, it is absolutely necessary that philosophy never deviate from that path which both the venerable antiquity of the Fathers has entered, and the Vatican Council has solemnly confirmed with its authority. Indeed, since it is clearly known that many truths are to be accepted from the supernatural order, which far surpass the understanding of any human intellect, human reason, conscious of its own weakness, should not dare to attempt to grasp them, nor to deny these same truths, nor to measure them by its own power, nor to interpret them arbitrarily; but rather, it should receive them with full and humble faith, and hold them in the highest honor, so

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that, in the manner of a servant and follower, it may be familiar with heavenly teachings, and, by the grace of God, may approach them. — But in those doctrines which human intelligence can naturally grasp, it is certainly fitting to use philosophy, with its method, its principles, and its arguments; but not in such a way that it seems to dare to withdraw itself from divine authority. Indeed, since it is known that those things which are revealed are endowed with certain truth, and that those things which are contrary to faith also conflict with right reason, the Catholic philosopher must know that he will violate both the rights of faith and of reason if he embraces any conclusion which he understands to be contrary to revealed doctrine. We know indeed that there are those who, excessively extolling the powers of human nature, contend that when human intelligence is once subjected to divine authority, it loses its native dignity, and is greatly hindered and impeded from progressing to the summit of truth, as if subjected to a kind of yoke of servitude. — But these things are full of error and deception; and they tend to the point that men, with the greatest folly, and without guilt of ingratitude, reject higher truths, and spontaneously reject the divine benefit of faith, from which all the sources of good also flow into civil society. For, since the human mind is held within certain limits, and within quite narrow ones, it is subject to many errors, and to the ignorance of many things. On the contrary, Christian faith, being founded on the authority of God, is the surest teacher of truth; and he who follows it is neither caught in the snares of error, nor agitated by the waves of uncertain opinions. Therefore, let those who study philosophy do so with obedience to the Christian faith (1) Epist. 1 4 3, (al 7) ad Marcellin. n. 7.

[*Latin ed. p. 104*]

104. Encyclical letters unite, and those who philosophize best understand this: for the splendor of divine truths, when received by the mind, itself aids understanding; and it does not merely add nothing to its dignity, but greatly enhances its nobility, keenness, and strength. — Moreover, when they direct the force of their intellect to refuting opinions that are contrary to faith, and to proving those that are in harmony with faith, they exercise reason worthily and usefully: for in the former, they discover the causes of error, and recognize the flaws in the arguments upon which those errors are based; and in the latter, they acquire the insights of reason by which things can be solidly demonstrated and convincingly persuaded to any prudent person. He who denies that such industry and practice increase the resources of the mind and develop its faculties, absurdly contends that the distinction between true and false contributes nothing to the progress of the intellect. Therefore, the Vatican Council rightly commemorates the excellent benefits that faith confers upon reason, with these words: "Faith frees reason from errors and protects it, and instructs it with manifold knowledge." (1) And therefore, if a man were wise, he should

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not blame faith, as if it were hostile to reason and natural truths, but rather should give thanks to God, and greatly rejoice that, among many causes of ignorance and in the midst of the waves of error, the most holy faith has shone upon him, which, like a friendly star, demonstrates the port of truth without any fear of straying. And if, Venerable Brothers, you consider the history of philosophy, you will understand that everything we have said a moment ago is confirmed by the facts. Indeed, the ancient philosophers, who were deprived of the benefit of faith, even those who were considered the wisest, erred greatly in many things. You know that they have often transmitted false and irrelevant things among many truths, and that they have presented many uncertain and doubtful things concerning the true nature of the divine, the origin of things, the government of the world, divine knowledge of the future, the cause and origin of evil, the ultimate end of man, eternal blessedness, virtues and vices, and other doctrines, the certain and true knowledge of which is most necessary for the human race. — On the other hand, the Fathers and Doctors of the early Church, who understood that, according to the counsel of the divine will, Christ, who is the power of God and the wisdom of God (2), is the one who restores all human knowledge, and in whom all the treasures of wisdom and knowledge are hidden (3), investigated the books of the ancient wise men, and compared their opinions with the truth, or with other things.

(1) Const. dogm. de Fid. Cath., cap. 4.

(2) 1 Corinthians 1:24.

(3) Colossians 1:3.

[*Latin ed. p. 105*]

ENCYCLICAL LETTER 105: In order to present doctrines, they chose with prudence those things which were truly said and wisely considered, embracing them, while amending or rejecting all others. For the most provident God, just as He raised up the most valiant martyrs for the defense of the Church, and great men, generous in their deeds, against the cruelty of tyrants, so too He presented to philosophers of false name, or to heretics, men of the greatest wisdom, who, with the aid of human reason, guarded the treasure of revealed truths. Therefore, from the very beginnings of the Church, the Catholic doctrine has encountered most formidable adversaries, who, mocking the dogmas and institutions of Christians, maintained that there were many gods, that the material of the world lacked a principle and cause, and that the course of things was contained by a blind force and a fatal necessity, and was not governed by the counsel of divine providence. Indeed, these teachers of insane doctrines were soon confronted by wise men, whom we call Apologists, who, guided by faith, also drew arguments from human wisdom, by which they sought to establish that one God, supremely perfect in every way, should be worshipped; that all things were produced from nothing

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by the omnipotent power of that God; that His wisdom prevails, and that each thing is directed and moved towards its own proper end.

Among these, St. Justin the Martyr claims a place of honor, who, after having thoroughly examined the most celebrated Greek Academies, and having clearly seen that truth could be drawn only from revealed doctrines, embraced them with all his heart, purged them of calumnies, defended them vehemently before the Roman Emperors, and reconciled many sayings of Greek philosophers with them. This was also admirably accomplished by Quadratus, Aristides, Hermias, and Athenagoras during that time.

Nor did Irenaeus, the unyielding martyr, Bishop of the Church of Lyons, attain less glory in the same cause. He vigorously refuted the perverse opinions of the Orient, the works of the Gnostics, which were spread throughout the Roman Empire, and explained the origins of heresies, their individual characteristics (according to Jerome), and from which philosophical sources they emanated (1).

Moreover, no one is unaware of the writings of Clement of Alexandria, which Jerome himself mentions with honor: What is included in them? Indeed, what is not of philosophy? (2) He himself discussed many things with incredible variety, useful for establishing the history of philosophy, for properly exercising the art of dialectic, and for reconciling reason with faith.

Following him was Origen, (1) *Epistola ad Magn.* (2) *Loc. cit.*

[*Latin ed. p. 106*]

106. The Encyclical Letter. The school of Alexandria, distinguished by its teaching, having been thoroughly instructed in the doctrines of the Greeks and Orientals, produced numerous and laborious volumes, wonderfully suitable for explaining divine matters and illustrating sacred dogmas; although these, as they now exist, are not entirely free from errors, they nevertheless contain great force of thought, by which natural truths are increased in number and strength.

Tertullian, with the authority of the Sacred Scriptures, fought against heretics; with philosophers, he changed the nature of the weapons, arguing philosophically; and he so sharply and skillfully refuted them, that he openly and faithfully objected to them: "Neither in knowledge, nor in discipline, are you equal" (1).

Arnobius also, with his writings circulated against the Gentiles, and Lactantius, especially with his Divine Institutes, diligently strove to persuade men of the dogmas and precepts of Catholic wisdom with equal eloquence and strength, not overturning philosophy as the Academics are wont to do (2), but partly with their own weapons, and partly by taking from the concord of philosophers themselves, they refuted them (3).

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Athanasius, and Chrysostom, the foremost of orators, left writings on the human soul, on the divine attributes, and on other matters of the greatest importance, which, according to the judgment of all, are so excellent that it seems that almost nothing can be added to their subtlety and abundance.

And lest we be too lengthy in recounting individual examples, we add to the number of the most distinguished men mentioned, Basil the Great, and both Gregories, who, having come from Athens, the home of all humanity, completely instructed in all the apparatus of philosophy, and having brought with them the resources of doctrine that each had acquired with ardent study, they turned these against heretics, to refute them, and to convert Christians.

But Augustine seemed to have surpassed all others, who, endowed with a powerful intellect, and thoroughly imbued with both sacred and profane disciplines, fiercely fought against all the errors of his age with the utmost faith and equal doctrine. What place of philosophy did he not touch upon; indeed, what did he not investigate most diligently, whether when he opened up the highest mysteries of the faith to the faithful, and defended against the mad attacks of adversaries; or when, having refuted the commentaries of the Academics or the Manicheans, he placed the foundations and firmness of human knowledge in safety, or when he pursued the reason, origin, and causes of the evils that oppress men? How much he wrote on angels, on the soul, on the human mind, on the will, and on free will.

(1) Apologeticus, § 4.

(2) Institutiones, VI, 7, cap. 7.

(3) De Opificio Dei, cap. 21.

[*Latin ed. p. 107*]

ENCYCLICAL LETTER 107. Who, with such profound skill, has disputed concerning free will, concerning religion, and concerning the blessed life, concerning time and eternity, and also concerning the very nature of mutable bodies? — After this time, John of Damascus, following in the footsteps of Basil and Gregory of Nazianzus, and in the West, Boethius and Anselm, who professed the doctrines of Augustine, greatly enriched the heritage of philosophy. Subsequently, the Doctors of the Middle Ages, whom they call Scholastics, undertook a great work, namely, to gather diligently the fertile and abundant fields of doctrine, widely spread in the voluminous writings of the Saints, and to collect them together, as it were, in one place, for the use and benefit of posterity. — It is fitting here, Venerable Brothers, to explain more fully, with the words of the most wise man, Our Predecessor, Sixtus V., what is the origin, nature, and excellence of this scholastic discipline: "By the divine gift, which alone gives the spirit of science and wisdom and understanding,

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and which increases and strengthens the Church through the ages, as it is necessary, this scholastic theology was invented by our most wise men. And especially two glorious Doctors, the angelic St. Thomas and the seraphic St. Bonaventure, the most distinguished professors of this faculty, with excellent talent, constant study, great labors, and vigilance, cultivated and adorned it, and handed it down to posterity, excellently arranged and explained in many ways. And indeed, the knowledge and practice of this most salutary science, which flows from the most abundant sources of divine literature, of the highest Pontiffs, of the Saints, and of the Councils, has always certainly been able to bring the greatest help to the Church, whether for truly and soundly understanding and interpreting the Scriptures themselves, or for safely and usefully studying and explaining the Fathers, or for refuting and opposing various errors and heresies: but especially in these last days, in which the times described by the Apostle have already arrived, and in which impious, arrogant, and deceitful men are increasing in wickedness, leading themselves and others into error, it is most necessary to confirm the dogmas of the Catholic faith and to refute the heretics" (1). Although these words seem to refer only to scholastic theology, it is clear that they are also to be understood as praising philosophy. For the excellent qualities that make scholastic theology so formidable to the enemies of truth are, (1) *Bulla*, *Triumphalis*, A.D. 1588.

[*Latin ed. p. 108*]

408 LETTER. The same Pontiff adds, "Those things which are fitting and connected to each other in substance and cause, that order and disposition, as if an instruction for soldiers in battle; those clear definitions and distinctions; those firmness of arguments and most acute discussions, by which light is distinguished from darkness, and truth from falsehood, the deceit of heretics, which is wrapped in many tricks and falsehoods, are revealed and exposed, as if a garment were removed" (1). We say that these are excellent and wonderful gifts, which can only be obtained through the proper use of that philosophy, which the scholastic masters, with diligent work and wise counsel, have commonly used in theological discussions.

Furthermore, since it is the characteristic and unique quality of scholastic theologians to join human and divine science with the closest possible bond, it is clear that theology, in which they excelled, did not obtain honor and commendation merely from the opinion of men, if they had employed a deficient, imperfect, or superficial philosophy. Indeed, among the scholastic Doctors, Thomas Aquinas stands out above all as prince and master; who, as Cajetan observes, because he held the ancient sacred doctors in the highest veneration, in some way inherited the understanding of all (2). He gathered and consolidated the doctrines of those, like the members of a single body, arranged them in a marvelous order, and added to them

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with such great advancements, that he rightly and justly holds a singular defense and ornament for the Catholic Church.

Here, he is teachable in intellect, sharp, of easy and tenacious memory, of the most upright life, a lover of truth above all, and distinguished in both divine and human science. Compared to Him, the world has been warmed by the heat of virtues, and filled with the splendor of doctrine. There is no part of philosophy that he does not treat with acute skill and solidity: he reasoned about the laws of reasoning, about God and incorporeal substances, about man and other sensible things, about human actions and their principles, so that in him neither a copious mass of questions, nor a suitable arrangement of parts, nor the best method of proceeding, nor the firmness of principles, nor the strength of arguments, nor the clarity or propriety of speech, nor the ease of explaining the most obscure things, is lacking. Moreover, it is also the case that the angelic Doctor examines philosophical conclusions in the reasons and principles of things, which are widely apparent, and in which the seeds of almost all truths are contained, so that they are concluded in his grasp, as it were, by later masters in a fitting manner (1) Bull. cited. (2) In 2. n.ae 2., q. 148, a. 4, in fin.

[*Latin ed. p. 109*]

ENCYCLICAL LETTER 109, opportune and with abundant fruit to be opened. Having applied the method of philosophy, both in refuting errors and in advancing truth, he achieved this from himself, so that he might not only vanquish all the errors of former times, but also provide the most invincible weapons for overthrowing those that would perpetually arise in the future. — Furthermore, rightly distinguishing reason from faith, he nevertheless associated them amicably, preserving the rights of both, and promoting their dignity, so that reason, elevated by Thomas to the heights of human understanding, can scarcely ascend higher; nor can faith receive more or stronger aids from reason than those which it has already obtained through Thomas. For these reasons, the most learned men, especially in former ages, who have excelled in theology and philosophy, having diligently studied the immortal works of Thomas, have dedicated themselves not merely to cultivating, but to thoroughly nourishing, his angelic wisdom. — It is well known that almost all the founders and legislators of religious orders have ordered their members to study the teachings of St. Thomas and to adhere to them, warning that none of them should, without punishment, deviate even slightly from the path of so great a man. While we pass over the Dominican family, which rightly glories in this supreme master, it is known that the Benedictines, Carmelites, Augustinians, the Society of Jesus, and many other sacred orders are bound by this law, as their statutes testify. And at this point, the mind takes great pleasure in recalling those most celebrated academies and schools that once flourished in Europe, namely, the University of Paris, Salamanca, Compiègne,

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Douai, Toulouse, Louvain, Padua, Bologna, Naples, Coimbra, and many others. No one is ignorant that the names of these academies have grown in renown with the passage of time, and that their opinions have held great weight in all matters when more serious affairs were being considered. Indeed, it is evident that Thomas has reigned as a prince in these great seats of human wisdom, and that the minds of all, whether teachers or students, have, with remarkable agreement, rested in the magistracy and authority of this one angelic Doctor. But what is more, the predecessors of Our Holy Father have praised the wisdom of St. Thomas Aquinas with singular encomiums and most ample testimonies. For Clement VI (1), in the Bulla In Ordine.

[*Latin ed. p. 110*]

In this Encyclical Letter, Pope Benedict XIII, and others, testify that his admirable doctrine illuminates the entire Church; Saint Pius V, moreover, declares that this same doctrine disperses the confused heresies and frees the entire world daily from pestiferous errors; others, along with Clement XII, affirm that abundant benefits have flowed from his writings to the entire Church, and that he should be held in the same honor as the greatest Doctors of the Church, namely Gregory, Ambrose, Augustine, and Jerome; finally, others have not hesitated to propose Saint Thomas as an example and master to academies and great schools, whom they might safely follow. In this regard, the words of Pope Urban V to the University of Toulouse are worthy of remembrance: "We wish and, by the tenor of these present words, we command you to follow the doctrine of Saint Thomas as true and Catholic, and to strive with all your strength to expand it." Urban V's example was renewed by Pope Innocent XII at the University of Louvain, and by Pope Benedict XIV at the College of Saint Dionysius in Granada. To these judgments of the greatest Pontiffs concerning Saint Thomas Aquinas, the testimony of Innocent VI is added, like a crowning glory: "His (Thomas's) doctrine, apart from the Canon, has the property of words, the manner of speaking, the truth of judgments, so that no one who adheres to it will ever be found to deviate from the path of truth; and whoever opposes it will always be suspected of untruth." Moreover, the Ecumenical Councils, in which the flower of wisdom from all over the world is gathered, have always striven to hold Saint Thomas Aquinas in singular honor. It can be said that Saint Thomas participated in the deliberations and decrees of the Councils of Lyons, Vienne, Florence, and the Vatican, and almost presided over them, combating with irresistible force and with most blessed results against the errors of the Greeks, heretics, and rationalists. But this is the greatest and most distinctive praise of Saint Thomas, one not shared with any other Catholic Doctor: that the Fathers of Trent, in the very midst of the conclave, while conducting the proceedings, wished to have the Summa of Saint Thomas Aquinas displayed upon the altar, from which counsel,

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reasons, and oracles might be sought.

(1) Brief to the F.F. Order.

(2) Bulla *Pretiosus*.

(3) Bulla *Mirabilis*.

(4) *Praedic.* 1451.

(5) Constitution dated August 3, 1368, to the Chancellor of the University of Toulouse.

(6) Letter in the form of a Brief, dated February 6, 1694.

(7) Letter in the form of a Brief, dated August 21, 1752.

(8) Sermon on Saint Thomas.

[*Latin ed. p. 111*]

ENCYCLICAL LETTER. It seemed that even this, namely, that the esteem, praise, and admiration of even the adversaries of the Catholic name would be reserved for that incomparable man. For it was discovered that among the leaders of the heretical factions, there were those who openly declared that, once the doctrine of Thomas Aquinas were removed, they would easily be able to contend with and overcome all the Catholic doctors, and to destroy the Church. (1) — Indeed, a vain hope, and yet, a hope that proved not to be without foundation. In view of these and such things, Venerable Brothers, whenever we consider the goodness, power, and outstanding benefits of that philosophical discipline so cherished by our forefathers, we judge it to have been rashly done, that to it its due honor should not always, nor everywhere, remain: especially since it is clear that the scholastic philosophy has enjoyed both long-standing use and the judgment of the greatest men, and, above all, the support of the Church. And in place of the old doctrine, a certain new method of philosophy has arisen, from which the desirable and salutary fruits have not been perceived, which both the Church and civil society would have desired. For those innovators of the 16th century, conceding that philosophy should not have any regard for faith, and having been granted, and having given, in turn, the power to invent and devise whatever they pleased, it followed that a multitude of philosophical systems would arise, and that diverse and even conflicting opinions would emerge, even on those matters which are of the greatest importance in human knowledge. From this multitude of opinions, it often happens that hesitation and doubt arise: and from doubt, how easily the minds of men are led astray, it is clear to all. — But this pursuit of novelty, as men are drawn by imitation, has also, in some places, been seen to permeate the minds of Catholic philosophers; who, having set aside the inheritance of ancient wisdom, have sought to create something new, preferring to augment and perfect the old with new things, certainly with less wise counsel, and not without detriment to the sciences. For this manifold method of doctrine, since it relies on the authority and judgment

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of individual teachers, has a mutable foundation, and for this reason, it makes philosophy not firm and stable, nor robust, like the old one, but wavering and flimsy. And if it should happen that it can scarcely withstand the onslaught of its enemies, it should recognize that the cause and fault reside within itself. — And when we say this, we certainly do not condemn learned and astute men, who have devoted themselves to this, (1) Beza — Bucerus.

[*Latin ed. p. 112*]

112 ENCYCLICAL LETTER.

They contribute to the advancement of knowledge and bring the resources of new discoveries to bear on the cultivation of philosophy; for we understand well that these things pertain to the growth of doctrine. But great care must be taken, lest all, or at least the principal, effort be devoted to these pursuits.

And in a similar manner, it is judged that sacred Theology should be aided and illuminated by a variety of intellectual resources; but it is absolutely necessary that it be treated with the serious method of the Scholastics, so that, with the powers of revelation and reason united in it, it may remain an unconquerable bulwark of the faith (1). Therefore, it is with the best of intentions that many cultivators of philosophical disciplines, having recently turned their minds to the useful task of restoring philosophy, have endeavored to restore and vindicate the excellent doctrine of Thomas Aquinas to its former glory. With equal zeal, we have learned with great joy that many of you, Venerable Brothers, have entered the same path with eagerness. We praise them greatly, and at the same time urge them to persevere in their undertaking; and we remind all of you individually that there is nothing more ancient and desirable to us than this, namely, to draw the purest streams of wisdom from the angelic Doctor, and to generously and abundantly provide them to the studious youth.

There are many reasons why we desire this with such zeal. First, in this our time, the Christian cause is often attacked by the machinations and cunning of a certain false wisdom; therefore, all young people, but especially those who are the hope of the Church, must be nourished with a strong and wholesome doctrine, so that, strengthened in their powers and equipped with a rich array of arms, they may learn to act bravely and wisely for the cause of religion, always ready, according to the Apostolic admonitions, to give an account to everyone who asks them of the hope that is in them (2), and to exhort in sound doctrine, and to refute those who contradict (3).

Furthermore, many of those men who, having turned away from the faith, hate Catholic institutions, claim that reason alone is their mistress and guide. We believe that, besides the supernatural help of God, nothing

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is more suitable for healing them and restoring them to grace with the Catholic faith than the solid doctrine of the Fathers and the Scholastics, which establishes the firmest foundations of faith, the divine origin of that doctrine, and its certain truth.

(1) *Sixtus V, Bull, cit.*

(2) *I Peter 3:15.*

(3) *Titus 1:9.*

[*Latin ed. p. 113*]

The Encyclical Letter, with its arguments, demonstrates with such evident clarity and force the benefits conferred upon the human race, and the perfect harmony with reason, that it is more than sufficient to persuade even the most obstinate minds and to overcome abundant objections. Indeed, we see that domestic and civil society itself, so greatly imperiled by the plague of perverse opinions, would certainly be much more peaceful and secure if a sounder doctrine were taught in academies and schools, a doctrine more in conformity with the teaching of the Church, such as is contained in the writings of Thomas Aquinas. For those things which he discusses concerning the true nature of freedom, concerning the divine origin of all authority, concerning laws and their force, concerning the paternal and just rule of the highest rulers, concerning obedience to higher powers, and concerning mutual charity among all men; these, and other matters of the same kind, which Thomas discusses, possess the greatest and most invincible strength to overthrow those new principles of law, which are recognized as dangerous to the peaceful order of things and to the public good.

Finally, all human disciplines should look forward to growth, and indeed, they owe much to the promise of support from this, the philosophical discipline, which is being restored to us. For the arts, as if drawing wisdom from philosophy, which is the guiding principle of wisdom, have always borrowed from it a healthy reason and a proper method, and have drawn inspiration from it, as from a common source of life. It is a fact, and it is constantly confirmed by experience, that the liberal arts flourish most when the honor and wise judgment of philosophy are preserved; and they have languished and almost been forgotten when philosophy has been neglected, or has been tainted by errors or ineptitude.

Therefore, even the disciplines of physics, which are now so highly valued, and which have produced so many excellent discoveries, will derive not only no detriment, but rather the greatest benefit, from the restoration of the philosophy of the ancients. For the fruitful exercise and advancement of these disciplines require not only the consideration of facts and the contemplation of nature, but also, once the facts have been established, it is necessary to delve deeper, and to diligently investigate the laws by which

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the natures of material things are governed, and the principles from which their order and unity in variety, and their mutual affinity in diversity, arise. It is remarkable how much strength, light, and help scholastic philosophy has brought to these investigations, if it is presented with a wise understanding. In this matter, it is also helpful to point out that...

[*Latin ed. p. 114*]

114 ENCYCLICAL LETTER: This philosophy, however, has been turned to a vice, which is detrimental to the progress and growth of the natural sciences. For, following the teaching of the holy Fathers, the Scholastics, in their widespread instruction in Anthropology, have taught that human intelligence can only be developed to understand things that are incorporeal and without matter through sensible things. Consequently, they understood that nothing is more useful to a philosopher than to diligently investigate the secrets of nature, and to devote much time to the study of physical things. And they confirmed this with their actions: for St. Thomas, St. Albert the Great, and other leading Scholastics, did not devote themselves so completely to philosophical contemplation that they did not also devote much effort to the knowledge of natural things; indeed, there are many sayings and insights of theirs in this field that modern teachers acknowledge as true and consistent with reality. Furthermore, many and distinguished teachers of the physical sciences openly and frankly testify that there is no real conflict between certain established conclusions of modern physics and the fundamental principles of the philosophical school. Therefore, while we gladly and gratefully accept whatever is wisely said, and whatever has been discovered and devised that is useful; We earnestly urge you, Venerable Brothers, to restore and widely spread the golden wisdom of St. Thomas, for the protection and honor of the Catholic faith, for the good of society, and for the growth of all sciences. We speak of the wisdom of St. Thomas: for if anything has been sought out by Scholastic doctors with excessive subtlety, or if anything has been taught with insufficient consideration, if anything is less consistent with the discoveries of later ages, or, finally, if anything is in any way doubtful, it is not our intention to present it as a model for our age to imitate. Moreover, let the teachers, intelligently chosen by you, study the doctrine of St. Thomas Aquinas and instill it into the minds of their students; and let them clearly demonstrate its solidity and excellence above all others. Let them illuminate and defend the same Academies instituted or to be instituted by you, and use them to refute prevailing errors. But so that nothing false be taken for true, nor anything corrupt for sincere, take care that the wisdom of Thomas be drawn from its own sources, or at least from those streams which, having been drawn from that very source, still flow freely and without mixture, as is the certain and unanimous opinion of learned men: but that the minds of the young be guarded against those who, having strayed from that source,

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have grown up with foreign and unhealthy waters.

[*Latin ed. p. 115*]

ENCYCLICAL LETTER

We know well that Our earnest desires will be frustrated, Venerable Brothers, unless they are accompanied by common prayers. We are reminded of this by He who is called the God of all knowledge in divine matters (1); and we are also reminded that every good gift and every perfect gift comes down from the Father of lights (2). And again: "But if any of you want wisdom, let him ask of God who giveth to all men abundantly and upbraideth not. And it shall be given him" (3).

Therefore, let us follow the example of the Angelic Doctor, who never devoted himself to reading or writing unless he had first offered prayers to God; and who openly confessed that whatever he knew, he had not gained through his own study or labor, but had received from God. Therefore, let us all humbly and earnestly beseech God, that He may send the spirit of wisdom and understanding to the children of the Church, and open their minds to understand wisdom.

And in order to more fully receive the fruits of divine goodness, let us invoke the most efficacious patronage of the Blessed Virgin Mary, who is called the seat of wisdom; and let us also invoke the most pure Virgin, the Bride of the Blessed Joseph, and the great Apostles Peter and Paul, who renewed the world, corrupted by the stain of errors, with the truth, and filled it with the light of heavenly wisdom.

Finally, trusting in the hope of divine assistance, and confident in your pastoral zeal, We impart to you all, Venerable Brothers, to the entire clergy and people, Our Apostolic blessing, the auspice of heavenly gifts, and a witness of Our singular benevolence, impartially in the Lord.

Given at Rome, near St. Peter's, on the 4th of August, in the year 1879, in the second year of Our Pontificate.

LEO XIII, POPE.

(1) Reg. I, 3.

(2) Jac. I, 17.

(3) Ibid.

[*Latin ed. p. 116*]

FROM THE HOLY CONGREGATION FOR INDULGENCES, ANGULÊME. CONCERNING THE STATIONS OF THE WAY OF THE CROSS.

June 20, 1879.

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Regarding the erection of Stations of the Way of the Cross, it was determined in the Brief *Exponi Nobis*, issued by Clement XII on January 16, 1731, and confirmed and added to by Benedict XIV in the Brief *Cum tanta sit* on April 30, 1841, that the Stations of the Way of the Cross could not be erected in churches and places not subject to the General Minister of the Order of St. Francis, unless the permission of the local Ordinary and the consent of the parish priest, and of the superiors of the church, monastery, hospital, and pious place where such stations are to be erected at the time, were obtained.

Since several questions have arisen concerning the validity of the erection of the Way of the Cross, because it is often called into doubt whether the aforementioned permission and consent have been given, in order to eliminate all such difficulties in the future, the Holy Congregation for Indulgences decreed on August 3, 1748, that in the future, when such stations are to be erected, both the designation of the priest erecting them, and the consent of the local superior, as well as the designation, consent, and permission of the respective Ordinary or Bishop, and of the parish priest, and of the superiors of the church, monastery, hospital, and pious place where such erection is to take place, must be given in writing and in no other way, and must be presented whenever required, under penalty of the nullity of the erection itself, which would be incurred by such action.

The Bishop of Angoulême, having considered the tenor of these decrees, presented suppliant petitions to the Holy Congregation for Indulgences. And in the first of these, he states that in his diocese, and almost everywhere in France, there are hospitals, churches, chapels, oratories, and houses of congregations of religious women.

[*Latin ed. p. 117*]

ENGOLISMEN. He writes that there are certain institutions, approved either by the Holy See or by a Bishop, which, although not formally exempt from the jurisdiction of the parish priest, are nevertheless administered independently by the parish priest through chaplains appointed by the Bishop. And he adds: in all these churches and places, Stations of the Cross have been erected in good faith, without the consent of the parish priest being required. Doubting the validity of such erections, he requests that it be declared whether they are to be considered valid or not, and if it is determined that they are invalid, he urgently requests that a remedy be granted by the Most Holy [See], so that excessive confusion may not arise, and the admiration of the faithful may not be aroused. In another letter, he explains that several priests in Gallia have obtained from the General Minister of the Order of the Friars Minor the faculty to erect Stations of the Cross in a certain number of churches or chapels, with the prior permission of the Ordinary; which permission they then present to the Ordinary, who signs it with general words, e.g., "We recognize them as

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authentic and permit them to be carried out." And he asks whether such a general permission is sufficient, so that the priest granted this permission may then, with the consent of the parish priest or superior of the place, validly erect Stations in any place within the limits of the jurisdiction of the aforementioned Ordinary, preserving what is to be preserved and leaving behind a written testimony of the completed erection, signed with his own hand; or whether, in addition to this general permission, a new request to the Ordinary is required, before any erection, specifying the place or church, so that the erection may be approved in that place. Therefore, in a General Congregation held in the Vatican Apostolic Palace on June 20, 1879, the following questions were proposed:

Question I. Are there any erections of Stations of the Cross, made without the written consent of the parish priest, in hospitals, churches, chapels, and houses of congregations of sisters, which are, by law, not exempt from the jurisdiction of the parish priest, but are, in fact (according to the custom prevailing in Gallia), administered independently by the parish priest, through a chaplain appointed by the Bishop?

[*Latin ed. p. 118*]

118. ENGOLISHMENTS. And concerning Affirmative questions. I. Should the Most Holy [Father] be consulted regarding the erection of such [chapels]? II. Is the written consent of the Ordinary required, under penalty of nullity in each case for each chapel erected, or is it sufficient that it be generically granted for erecting chapels in a certain number of churches or oratories, without specific designation of the place? And concerning Affirmative to the first part and negative to the second. IV. Should the Most Holy [Father] be consulted regarding the erection of chapels, even after a generic consent has already been given, or should the deficiency be remedied by a new written consent specifically granted by the Bishop? The Fathers, having heard the votes of the Consultors, responded: Regarding I. Negative. Regarding II. Provision is made in the first [question]. Regarding III. Affirmative to the first part, Negative to the second. Regarding IV. Affirmative to the first part, Negative to the second. And after a report on all of these matters was made to His Holiness, Our Lord Leo XIII, during an audience held by the undersigned Secretary on June 21, 1879, His Holiness approved the vote of the Congregation in all respects and validated the aforementioned chapels erected with generic consent. Given in Rome, from the Secretariat of the Holy Congregation for Indulgences and Sacred Relics, on June 21, 1879. By L. CARD. OREGLIA, Prefect. A. PANICÏ, Secretary.

OBSERVATIONS FROM THE OFFICE. Regarding the first of the proposed questions, it was noted that, if one considers what is established by the Brief of Clement XII, "Exponi Nobis," confirmed by Benedict XIV in the Brief "Cam tanta sit," it would seem that the written consent of the parish

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priest is entirely required for the validity of the erection of Stations of the Cross. However, the Holy Congregation for Indulgences...

[*Latin ed. p. 119*]

ENGOLISMEN. 419. Concerning chapels, because of certain circumstances, it has been decreed that, in cases where chapels have been erected without the consent of the parish priest, recourse should be had to the Most Holy [See] for a decision, either to approve them outright, or to approve them with certain conditions, so that the devotion of the people to the parish church is not diminished, or that confusion, scandals, or dissensions are avoided. Taurin. September 7, 1749. Farolivien. April 8, 1755, and Piacentina, July 19, 1783. Therefore, in this matter, it seems reasonable to consider both the custom prevalent in Gallia, according to which the chaplains in question, in fact, exercise their ministry independently of the parish priests; and the good faith with which the Stations of the Cross were erected, without requiring the consent of the parish priests; and also the constant silence observed by the aforementioned parish priests, which, not undeservedly, can be interpreted as tacit consent. All of these things, although they may not be sufficient to establish a custom that would override the Constitutions and decrees of the Holy Pontiffs, nevertheless seem to provide a reasonable basis for recourse to the Most Holy [See] for a decision, either to approve or to remit the matter to the prudence and judgment of the Bishops in each individual case. With regard to the other question raised, it has been observed, both in letter and in spirit, that the Breves cited can reasonably be called into question as to whether, for the validity of the erection of Stations of the Cross, a specific permission from the Bishop is required for each individual erection, in addition to the general permission previously obtained from the Bishop without specifying a location. And although the reason for obtaining this specific permission from the Bishops may seem less important after the Decree of Pius IX of March 14, 1871, whose purpose is to promote the pious practice of the Stations of the Cross as widely as possible, by abolishing the law of distance and allowing stations to be erected in each church; nevertheless, other reasons stand in opposition. Indeed, according to the decree of August 3, 1748, reported by Prinzivalli on page 122, in order to avoid controversies regarding the validity or invalidity of the erection of Stations of the Cross due to the lack of a license from the Bishop and other consents, it was established, under penalty of nullity of the erection itself, that such consents and licenses must be given in writing and not otherwise, and that they must be presented whenever required. But—

[*Latin ed. p. 120*]

120. Could such a license be granted, if the testimony of the license obtained were not preserved in each place where the stations are erected,

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and therefore, a specific license were not obtained for those very places? If, from what has been said, it seems necessary to obtain a specific license from the Bishop, it should be noted that a general license for the erection of a certain number of stations does not suffice, unless it can be shown that these stations were erected in good faith, and that there was no just cause for which the Bishop would have refused to grant a specific license, had it been requested. And therefore, for the granting of indulgences for these stations, it should be consulted with the Most Holy [See of Rome].

OPINION OF THE CONSULTOR.

Besides the two Briefs of Clement XII and Benedict XIV, two decrees reported by Prinzivalli also require the consent of the pastors for the erection of Stations of the Way of the Cross. In the first of these, it is written: "The Sacred Congregation for Indulgences, in order to eliminate any future difficulties in this matter, on July 30, 1748, decided that, in the future, when such stations are erected, both the appointment of a priest and the consent of the local superior, as well as the respective Ordinary or Bishop and the pastor... where such an erection takes place, the appointment, consent, and license, as the case may be, must be given in writing and not otherwise, and must be exhibited whenever it is necessary, under penalty of the nullity of the erection itself." In the other decree, also of August 28, 1752, it is prescribed that, for erections made outside the churches of the Brothers Minor of the Observance, a license must be required in writing and not otherwise from the Ordinaries, as well as from the pastors, under penalty of nullity.

Despite these decrees, it has been the practice almost everywhere in France, and perhaps in other kingdoms, that stations of the Way of the Cross are erected in chapels, oratories, colleges, etc., without the consent of the pastor and other local superiors. This practice, it seems, may have originated with a document from La Feuillee, in which the Minister General of the Brothers of the Observance communicates the faculties for erecting Stations of the Way of the Cross: in that document, it is written: "We grant the faculty, that [with prior license from the Ordinary], sacred Stations of the Way of the Cross may be blessed and erected in twenty churches or public places."

[*Latin ed. p. 121*]

ANGOULEME. 121 > To chapels... observing all that are to be observed by law. > Therefore, La Feuillee requires no other permission, except that of the Ordinary, for that general phrase: "observing all that are to be observed by law" is not sufficient to indicate that the consent of the parish priest and other local superiors is also required; this should have been added where mention is made of "previous permission of the Ordinary." The Bishop of

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Angoulême writes that the priests, having the faculty to erect Stations of the Way of the Cross, acted in good faith; the parish priests and other superiors did not object, and even the Bishop remained silent. And therefore, if we are to inquire about the validity of such erections, it seems that, if the letter is considered, those erections must be considered invalid, and the faithful will not gain indulgences. But since this seemed too harsh to the Consultor, he wished to find reasons for the validity of these things. "I believe," he said, "that the permission of the parish priest is not required in the same way as the permission of the Ordinary; for the Ordinary is the first pastor of the entire Diocese, and he himself, even if the parish priest objects, can permit the erection of the Way of the Cross. Since there is no recourse against such a general practice, this practice or custom is more than centenarian, dating back to the year 1752, according to a decree that was issued. We can apply here the rules of canon law and moral theology, according to which any human law, even ecclesiastical law, is, through regular custom, either abrogated or interpreted, as Benedict XIV states in Synodo I, 13, chapter 8, number 8. We have here an ecclesiastical law that has been modified by a custom that is more than centenarian, so that it is considered that the consent of the Ordinary is sufficient for the valid erection of the Way of the Cross. And the Minister General of the Observants seems to have given this interpretation, because in the document in which he grants the faculty to erect stations, he requires nothing other than the consent of the Ordinary. Regarding the second question proposed by the Ordinary of Angoulême, the Consultor said that no one can doubt the meaning of the words by which the Ordinaries declare the authentic faculties that are contained in the diploma of the Father General of the Order of Friars Minor. For the Bishop, by means of this diploma of the said Father General, has the power to permit a priest, N., in his Diocese, in twenty...

[*Latin ed. p. 122*]

£22 ENGOLÏSMEN. In churches, chapels, or oratories, Stations of the Way of the Cross should be erected. When the authentic faculties are recognized, the Ordinary declares that he permits a priest, N., to order their execution, saying, "We have recognized them as authentic and we permit them to be carried out." Although the Bishop might add a condition, such as that he should first be informed of any erection to be made, he did not do so, knowing that any devout practice concerning the Passion of Our Lord would be pleasing to all. Therefore, the Consultor judged that the answer to the question of whether a general concession is valid should be affirmative. FROM WHICH WE GATHER: I. That the consent of the parish priest is not required in writing for the erection of Stations of the Way of the Cross; therefore, Stations of the Way of the Cross can be validly and without any ambiguity erected by those with authority, even without the knowledge of the parish priest. II. However, the consent of the Ordinary is required

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for each individual case, and for each erection of Stations; and in no way is it sufficient, as was thought, that the same consent be generically given, for the erection of Stations in a certain number of churches, but a specific designation of the place is required. III. Therefore, the erections, concerning which the matter is, which have already been carried out in a general manner, suffer from the defect of nullity, and it was necessary for them to be healed by pontifical sanction, lest the faithful be defrauded of indulgences. SMIRNA. REGARDING THE BLESSING OF THE CRUCIFIXES OF THE WAY OF THE CROSS AND THE TABLETS FOR THE STATIONS OF THE CROSS. Since a doubt arose in the Archiepiscopal See of Smyrna: Whether for the validity of the blessing of the Crucifixes of the Stations of the Way of the Cross, it is required that the blessing be given before the affixing of the same, or whether it suffices that it be imparted after the affixing, for the resolution of this matter, a supplication was presented to this Congregation of Indulgences by the Most Reverend Archbishop. DECREE.

[*Latin ed. p. 123*]

SMIRNEN. 123. The Fathers, assembled in the General Congregation held in the Apostolic Palace at Vatican on June 20, 1879, having heard the votes of the Consultors, decreed: Negatively regarding the first part; Affirmatively regarding the second. And I, the undersigned Secretary, presented a report to His Most Holy Lordship, Pope Leo XIII, in an audience on the 21st day of the aforementioned month and year, and His Holiness benignly approved the vote of the Holy Congregation. Given at Rome, from the Secretariat of the Holy Congregation for Indulgences and Sacred Relics, on June 21, 1879. A. L. CARD. OREGLIA, Prefect. A. S. STEPHANO, Prefect. A. PANICI, Secretary.

VOTE OF THE CONSULTOR.

This Consultor stated: "Having read all the decrees of the Holy Congregation concerning the Way of the Cross, I have found nothing which grants permission to bless the crosses and images after they have been erected. On the contrary, I have always found that the custom should be observed in all cases. As an example, I cite the decree from Nanceien, reported by Prinzivalli, page 454. 'The Bishop of Nanceien requests whether the erection and blessing of the Stations of the Way of the Cross in the Church or Oratory can be done in such a way that, before the ceremony, or even on the day before, fourteen crosses with painted images, if there are any, are hung in the designated places, and their blessing is performed by a priest standing before the altar, and after this is completed, the priest, kneeling before each cross, incenses and prays in the usual manner, or whether the exposition and suspension must be done during the ceremony, which would be very difficult.' The Holy Congregation responded: 'The custom

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should be observed in all cases.' And thus it decreed on January 31, 1818. However, the ritual of the Franciscan Order prescribes that the images and crosses be blessed and then placed in their proper places. Therefore, according to the aforementioned decree and the constant custom, it seems that, for the blessing to be valid and efficacious, it must be performed before the images and crosses are erected."

[*Latin ed. p. 124*]

124 SMIRNEN. Haec conclusio videtur confirmari per verba decreti ab Antistite ipso Smirnen citati in uno loco incerto. Interrogatur: "Num benedictio tabularum et crucium facta a Sacerdote legitime delegato, alius quicumque tabulas collocare possit, privato sine caeremoniis, et etiam in alio tempore?" Respondetur: Affirmative (1). Duo relata decreta, ait Consultor, sunt concordia; et in quaestione, verbum est de benedictione antecedenter crucibus et tabulis data a Sacerdote, necessaria praedito facultate; idque appositum est in petitione quae fit, an idest quivis Sacerdos conficere possit erectionem Viae Crucis. Sacra Congregatio respondit: Affirmative: et ita respondendo, ait Consultor, idem est, ac si dicisset, quemlibet Sacerdotem benedictionem facere posse, cum adimpleatur quidquid in subiecta materia exposcitur a consuetudine; quae innuit, benedictionem crucium et tabularum praemittendam esse earumdem affixioni, ut valida sit. ANIMADVERSIONES EX OFFICIO. Dubio ab Archiepiscopo Smirnen proposto, causam videtur fuisse responsi a S. C. Indulgentiarum dato die 22 Augusti 1842, iamque relato in Synopsi voti Consultoris. Ex quo decreto argui potest: si pro valida habetur benedictio, cum actus affixionis non fiat simul, sed impertiatur tempore distincto atque etiam a diverso sacerdote, num pro valida non erit habenda, si potiusquam eodem tempore vel antea impertiatur, crucium et tabularum affixione iam peracta? Consultor tamen negativam sententiam secutus est, innixus decreto edito in Nanceien die 31 Ianuarii 1848; atque hoc cum alio decreto edito 22 Augusti 1842, concilians rationem dubitandi resolvit. Attamen regerere non videtur Nanceien, quia S. Congr. minime respondisset Negative ad primam partem, et Affirmative ad secundam, ceu respondendum erat si voluisset absolute reprobare atque interdicere, ut benedictio post affixionem impertietur, sed respondit simpliciter "servandam in omnibus." (1) Sacra Congregatio Indulgentiarum, die 22 Augusti responso sub Affirmative, praemisit, quod in erectione Viae Crucis, benedicendae tantum sint Cruces, minime vero Tabulae, seu picturae.

[*Latin ed. p. 125*]

SMIRNEN. 125, concerning custom. > Therefore, it does not exclude the possibility that the blessing may also be given later, if such a custom has become established in a particular place. However, the Holy Congrega-

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tion, in its response, did not understand that it is necessary to observe all customs; rather, it unequivocally and clearly insisted on the observance of the aforementioned general and constant custom. This is evident from the tradition contained in the aforementioned decree, and it is clear that the Holy Congregation presented this argument. And it will become clearer that one should not deviate from this general and constant custom, and that any particular custom that deviates from it should be condemned, if it is observed that the observance of this custom has been explicitly enjoined by the Supreme Pontiffs Clement XII and Benedict XIV (1). While permission is granted to erect pious places of the Stations of the Cross in churches and other pious places, the General Minister of the Order of Minor Friars stipulates that those not subject to observance must adhere to certain conditions. Among these conditions, it is found that, with regard to those to be erected henceforth, the manner and form must be observed, by which such erections have hitherto been customary in churches and in the aforementioned places of the Order. This was again strongly emphasized in the instructions for properly performing the pious exercise of the Stations of the Cross, published by order of the Holy Congregation of Indulgences on April 3, 1731: there, in number 3, it is stated that the (Stations) must be erected in the customary manner and as has been observed in the aforementioned Order. FROM WHICH IT IS UNDERSTOOD I. For the validity of the blessing of the Stations of the Cross, it is not required that the blessing be given before (1). It is fitting to recall the motives by which the Most Holy Fathers, Saint Leonard of Port Maurice, and the blessed Benedict XIV, inflamed by the petition contained in the Letters of Clement XIII, confirmed the privileges and indulgences pertaining to the Passion, Cross, Death, and wounds of our Redeemer, and also prescribed other things, declaring their favor for this most pious exercise. (2) "Since (says this Pope in the letter, the beginning of which we are writing here) the power of the Passion, Cross, and Death of our Lord Jesus Christ is such that no remedy is found to be more effective in healing the wounds of the human spirit, which are wounded so often by sin, our predecessors, the Fathers and the Roman Pontiffs, never ceased, but with constant exhortations and with generous grants from the treasures of Heaven, persuaded others to..."

[*Latin ed. p. 126*]

I. Concerning the affixing [of the Stations of the Cross], it suffices that they be affixed, but it is sufficient that, after their affixing, they be distributed [for veneration]. II. Through this resolution of the doubt, it appears that the Eminences of the Cardinals did not intend in any way to derogate from the ancient custom, by which the Order of the Franciscans, by privilege, has used the Stations of the Cross, but rather they have established that the blessing can be properly performed even after the erection of the crosses. III. Therefore, it appears that the blessing of the crosses

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should be considered valid and efficacious, whether it is imparted before or after the erection of the crosses. IV. For the erection of the Stations of the Cross, the tablets and pictures cannot be blessed, but the blessing is to be restricted to the crosses alone. DECRETUM DE ORBIS TERRIS. The Church teaches that those who have been glorious in their generation are to be praised; therefore, the Saints Joachim and Anne, who conceived the Immaculate Virgin Mary, are indeed to be venerated with a special honor. As Damascenus says to them, "From the fruit of your womb, you will be known"; for indeed, by living a pious and holy life in human nature, you gave birth to a daughter superior to the angels, and now the Lady of the Angels (Or. I. de Virg. Mariae Nativ.). Therefore, since parents are crowned by the glory of their children, it is not surprising that the Church, from the earliest times, has followed Saint Joachim and his blessed wife Anne with special devotion and reverence; indeed, the Fathers of the Church have adorned them with praises, and among the faithful, the veneration shown to them has increased to such an extent that temples have been built in their honor, and pious sodalities have been established. Moreover, Christian princes have not infrequently urged the Roman Pontiffs with earnest pleas to honor the parents of the Virgin Mary with more solemn devotion. The Roman Pontiffs, with a willing heart, have granted these most pious requests, establishing a most efficacious...

[*Latin ed. p. 127*]

DECREE. 127. The patronage of these Saints before God, and especially through their daughter, the Queen of Heaven, having been confirmed by the devotion rendered to her by the Christian people, not only by their authority, but also by special privileges, it has come to pass, that in these most blessed times, divine mercy has so willed it, that as the Christian people more and more need divine help and heavenly consolation, the Most Blessed Virgin Mary and the worship of her have received new and greater increases in honor: hence, it was fitting that the new splendor and fresh glory, with which the most blessed daughter shone, should redound to her most happy parents. Wherefore, in many dioceses, with the approval of the Apostolic See, the feasts of these Saints have been celebrated with more solemn pomp and rites, in order to obtain, above all, family concord and tranquility; indeed, there have been no wanting prelates who have not, throughout the world, proclaimed the elevation of these rites, without any hesitation, by the same Apostolic See. Remembering all these things, Our Most Holy Lord, Pope Leo XLII, wishing to give a conspicuous testimony of his devotion, especially to Saint Joachim, whose name he bears, which is interpreted as "Preparation of the Lord," and confident that with increased worship, the patronage of the Church will also be strengthened, by his own initiative, he has ordered that, through the present Decree of the Congregation of Sacred Rites, the Feast of Saint Joachim, which falls on the Sunday

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within the Octave of the Assumption of the Blessed Virgin, as well as the Feast of Saint Anne, associated with it in the same honor on July 26th, be raised from the rite of double major to the rite of double second class, and that under this rite they be henceforth inscribed in the Calendar of the entire Church. August 1, 1879. LocofSigilli D. CARD. BARTOLINI S. R. C. PRAEF. Piae. Ralli S. R. C. Secretarius.

[*Latin ed. p. 128*]

128 DECREE concerning the introduction of the cause for beatification and canonization of the venerable Servant of God, Father Gerard Majella, a lay member of the Congregation of the Most Holy Redeemer. On the fourteenth day before August of the preceding year, Our Most Holy Lord Pope Leo XIII graciously granted that, without the intervention or vote of Consultees, an Ordinary Session of the Congregation of Sacred Rites be held, concerning the validity of the processes instituted by Apostolic Authority regarding the three miracles, which, through the intercession of the aforementioned Venerable Servant of God, Father Gerard Majella, are said to have been wrought by God. Therefore, the Most Eminent and Reverend Cardinal Aloysius Biiio, Relator of this Cause, at the request of the Reverend Father Brixius Queloz, General Procurator of the Congregation of the Most Holy Redeemer, and Postulator of the Cause itself, in a special session of the Sacred Congregation, according to the particular dispositions of Our Most Holy Lord, published on November 20, 1878, and convened at Vatican on the aforementioned day, proposed the following question: Whether it is established by Apostolic Authority that the processes of Uri, Benevento, and Mechlin are valid concerning the aforementioned miracles; whether the witnesses were duly and properly examined, and whether the testimonies were legitimately obtained, in the case and for the purpose in question? Furthermore, the Sacred Congregation, after careful examination of all matters, and after hearing the voice and written opinion of the Reverend Father D. Lawrence Salvati, Promoter of the Holy Faith, declared in writing: Affirmative; concerning the process of Uri, it is necessary to consult with the Most Holy [authority] for the validation of the Ordinary process constructed in the town of Francavilla in the year 1850 and included in the Apostolic process. July 21, 1879. Subsequently, a faithful report of all these matters was made to Our Most Holy Lord Pope Leo XIII by the undersigned Secretary, and His Holiness approved and confirmed the judgment of the Sacred Congregation, and graciously granted the requested validation of the aforementioned process on August 1st of the same year.

[Place for the Seal]

D. CARD. BARTOLINIUS.

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R. C. PRAEF. Piae. Ralli S. R. C.
Secretarius.

[*Latin ed. p. 129*]

129 APPENDIX: AUTHENTIC DECREES FROM THE ACTS OF THE SACRED CONGREGATION. When the Most Reverend Monsignor Ignatius Bourget, Bishop of Marianopolitanus, presented the following two questions to the Congregation of Sacred Rites for appropriate resolution, namely:

QUESTION I. Whether it is permissible for a priest, who celebrates a private Mass in a public church on a Sunday, to leave the altar at the "Kyrie eleison," omitting the other parts of the Mass, in order to sing the solemn Mass, to take the place of a priest who is suddenly and unexpectedly prevented from celebrating this solemn Mass for the people, or whether, in such a case or a similar one, it is more appropriate to grant the Apostolic Indult of celebrating twice in one day, which weighs heavily on the conscience of the Bishop?

QUESTION II. Whether a parish priest may wear a surplice or alb when blessing a marriage, or whether he must adhere to the prescriptions of the Roman Ritual?

The same Sacred Congregation, after hearing the report of the undersigned Secretary, and also the opinion in writing of another from the Masters of the Apostolic Ceremonies, decided to respond as follows:

To I. Regarding the first part of the question, it is permissible to leave the Mass in the case presented, provided that those present are notified; regarding the second part, it is not appropriate.

To II. If the marriage is celebrated outside of Mass, the prescriptions of the Acts, volume Xli, title II, section XXXV, should be followed. If the marriage is celebrated within Mass, the rubrics of the Roman Missal should be observed, along with all that is prescribed therein.

And thus it responded on July 3, 1869. DERTHUSEN.

Paulus Sitius, Canon of the Cathedral Church of Derthusen, and Editor of the Diocesan Calendar, deeply concerned that matters pertaining to the sacred liturgy be carried out properly and in order, especially in cathedrals, proposed the following questions to be resolved by the Congregation of Sacred Rites, with the consent of his Most Reverend Bishop:

QUESTION I. In this cathedral church, several Masses of the Saints are often sung throughout the year, whose feast day is celebrated, due to the devotion of the faithful in the altars or chapels of the same church, especially in the altar or chapel of the Blessed Virgin Mary of the Belt, in which a confraternity is established under this title. Since the Decrees of the Sacred Congregation of Rites of August 3, 1652, in one passage in Assisi, and in another in Milan, state "it is not permissible to sing the same Mass of the

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same Saint on the same day in the same church," the question is asked whether these words should be understood so literally that two Masses of the same Saint, whose feast day is celebrated, are prohibited from being sung in the same church, whether it be the cathedral or any other.

[*Latin ed. p. 130*]

I. Furthermore, in any altar or chapel, may both or either of the hymns be sung, even before or after the Divine Office, so that, besides one hymn, whether it be a hymn of the order or not, was it not forbidden to sing another of the same feast?

II. By Apostolic concession of May 9, 1867, the feast of the Blessed Virgin Mary of the Belt is celebrated in this diocese on the first Sunday of September with a double rite of the first class, whereas previously it was celebrated on the second Sunday of October with a double rite of the second class. Indeed, the confraternity of the same Blessed Virgin of the Belt in this cathedral church arranges for the singing of hymns each year, out of devotion and a sense of gratitude, after the novenary Masses of the feast, which are also sung on double days as votive Masses of the very feast, whose Mass is "Salve sancta Parens" with a proper prayer, the Gloria, and the Creed, and are celebrated after the Nones by dignitaries or canons invited in turn at the altar or chapel of the same Blessed Virgin of the Belt, which is one of the chapels of this church, with the Chapter absent from the choir, and only the Commensal and Beneficed clergy remaining to sing. However, last year, the Orator indicated that these votive Masses could not, according to the rubrics and the decrees of this Holy Congregation, be celebrated without a special privilege from the Apostolic See, and since no such privilege is known to exist, although its existence was presumed, the question has now arisen as to whether the custom of celebrating the aforementioned Masses can continue, which they call unforgettable. Therefore, the Orator humbly requests that the Congregation of Sacred Rites declare whether the aforementioned custom can continue, since there is no knowledge of a special Apostolic Indult?

III. Whether the Gloria and Creed can be sung in the aforementioned votive Masses?

IV. Whether, on the days within the Octave of the Nativity of the Blessed Virgin Mary, the aforementioned votive Mass should be sung of the Nativity, according to other decrees, or of the time with the proper prayer of the Blessed Virgin of the Belt?

V. Whether, on a Sunday within the Octave of the Nativity of the Blessed Virgin Mary, if the feast of the Most Holy Name of Jesus occurs, the aforementioned votive Mass should be sung of the Octave, or of the feast, or of the time with the proper prayer of the Blessed Virgin of the Belt?

VI. Whether the aforementioned votive Mass can be sung on the very

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day of the feast of the Nativity of the Blessed Virgin Mary, which in this diocese is a double rite of the first class and is to be observed by precept, as it is the patronal feast of the same diocese, by Apostolic concession of December 12, 1867?

The aforementioned Sacred Congregation, with the undersigned Secretary present, having heard the opinion in writing of another of the Masters of the Apostolic Ceremonies, having reviewed the proposed questions, responded as follows:

To I: According to the decrees, it is not permitted.

To II: Negatively; but the same Sacred Congregation grants a special grace, so that during the Octave, a single solemn Mass with the Gloria and Creed may be sung, as in the feast of the Blessed Virgin of the Belt, to complete...

[*Latin ed. p. 131*]

Men in the chanting of the Hour of None, without omitting the Conventual Office of the day, and except for the Vesper services of the first class, and any other feast day or day within the octave of the same, to the Most Holy Virgin. To the third question: Negatively, if this is not expressed in the Indult. To the fourth question: Affirmative to the first part; negatively to the second. To the fifth and sixth questions: The votive Mass is to be omitted. And thus it was decided, conceded, and declared on July 3, 1869. OF THE MINOR ORDER OF ST. FRANCIS, REFORMED. The Most Reverend Father Bernardinus of the Port of Rome, Minister General of the Order of the Minor Friars of St. Francis, who at that time also held the office of General Procurator for the Reformed Family, humbly requested of the Sacred Congregation: Whether the religious of his Order residing in the suppressed Provinces of Italy are bound to recite the Office of the respective Patron of the Regular Province, to which Office they are bound according to the special Rule of their Order, number 16. The Sacred Congregation itself, with the undersigned Secretary, after hearing the opinion of another, and after it was approved by the Masters of the Sacred Ceremonies, responded: Affirmative, that is, nothing should be changed. And thus it was decided and ordered to be observed on July 3, 1869. (1) OF BRESIA. The Most Reverend D. Hieronymus Verzeri, Bishop of Brescia, presented to the Congregation of Sacred Rites a matter concerning Lombardy, in which the municipal statutes stipulated that the bodies of the deceased should be transported from the house to the Church, and from there to the cemetery, in a sarcophagus carried in a cart drawn by horses. However, it was stipulated that the clergy, wearing their sacred vestments, should not be forced to precede the horses with a cross. Therefore, the Orator proposed that whenever a cart is used to transport the deceased in funerals within the city of Brescia, the clergy should not accompany the funeral with the cross, but should receive the body in the sarcophagus at the doors of the

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Church, and after the funeral services have been completed, if the body is to be transported to the cemetery in the cart, they should return the sarcophagus to the doors of the Church. Since many found this to be objectionable, and it caused complaints, especially to the parish priests, before the aforementioned Orator could establish anything by a general decree, he humbly requested the following questions to be resolved by the same Sacred Congregation: QUESTION I: Whether the use of a cart, upon which a coffin is placed and drawn by horses to the Church and Cemetery, can be tolerated in funerals? QUESTION II: And, to the extent that it is affirmative; whether the parish priest and the clergy can lead the funeral wearing their sacred vestments and carrying a cross; or whether they must receive the coffin at the doors of the Church, and after the funeral services, according to the Ritual, have been completed, return it there, to be transported in the cart to the Cemetery? The Sacred Congregation itself, after hearing a previous opinion from (1) The decree that follows has already been reported, etc. Vol. IV, page 660.

[*Latin ed. p. 132*]

132 To the Masters of the Apostolic Ceremonies, he decided that a report concerning the following should be written, and he wrote the following: Regarding I. Affirmative. Regarding II. Affirmative concerning the first part; negative concerning the second. And thus he replied and ordered it to be observed on March 5, 1870, in OLOMÚTZ. In order that all things may proceed in an orderly manner and according to the established method in the sacred ceremonies and ecclesiastical functions, the Master of Ceremonies in the Archdiocesan Church of Olmütz humbly requested the Congregation of Sacred Rites to deign to express its opinion on the following matters:

QUESTION I. In the Archdiocesan Church of Olmütz, by order of the Archbishop, should the prayer for the Pope be recited daily in all solemn and private Masses, which, according to the rubrics, admit of the Collect? Furthermore, since on the anniversary of the election and consecration of the Archbishop, the prayer for the Bishop must be recited in all Masses throughout the entire diocese, and since this prayer is the same as the one recited for the Pope, the question arises as to what should be done on that particular day?

QUESTION II. In the general rubrics of the Roman Missal, title "Rites for Celebrating Mass," paragraph VII, number 10, the following is prescribed concerning the second incense offering: "Then, with reverence, he incenses the Cross and the altar, as mentioned above, with the same deacon assisting, saying: 'May the Lord be pleased.'" However, in order II of the Mass, concerning the same incense offering, it is written: "Then he incenses the altar, saying: 'May the Lord be pleased.'" The question is, whether these words should be spoken by the celebrant when he begins to incense the Cross, or when, after the Cross and relics have been incensed, he begins to

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incense the altar?

QUESTION III. Is it necessary to add the "Alleluia," and in due time, "Laudibus tuis, Domine," after the "Deus in adiutorium meum," as is done in the other canonical hours?

QUESTION IV. If a Bishop, celebrating a Mass for the Dead, grants absolution, and the coffin of the deceased is located outside the sanctuary, should he sit at the head of the place in the middle, or rather, slightly towards the Epistle side, so that he can see the Cross held by the Subdeacon, as prescribed in the general rubrics of the Roman Missal, paragraph XIII, number 4?

QUESTION V. In the Metropolitan Church of Olmütz, five solemn Masses are celebrated annually for the Dead: one for the Benefactors, another for the Archbishops, a third for all those buried in the Metropolitan Church, a fourth for the Founders of the Metropolitan Church, and a fifth for the deceased Canons. Since all those mentioned did not die on the same day, the question arises as to whether these Masses should be celebrated as on the anniversary of the dead, or rather, as on ordinary daily Masses?

QUESTION VI. When a Bishop celebrates a solemn Mass, should the chasuble be put on again after the distribution of Holy Communion?

QUESTION VII. Whether the mitre should be...

[*Latin ed. p. 133*]

The Bishop should, therefore, take what is due to him when he imposes his hands for the blessing of the oblations during the solemn Mass?

DOUBT VIII. If a Bishop, present at a solemnly celebrated Mass performed by another, recites the verse of absolution, "Indulgentiam, etc.," during the confession, should he immediately return to his seat, or is he obliged to recite the following verses along with the celebrant?

DOUBT I X. During the Lenten season, the Archbishop celebrates Vespers with solemn rites on several occasions. If the Compline does not follow, the question arises whether the final antiphon of the Blessed Virgin Mary should be sung after Vespers; and if so, at what time, and in what manner?

Furthermore, there are doubts regarding which the Holy Congregation wished that one of the Masters of the Sacred Ceremonies would express his opinion in writing. This was presented by the undersigned Cardinal, Prefect of the Congregation of Sacred Rites, in place of and on behalf of the Most Eminent and Reverend Cardinal Aloysius Billio of Posen, at the Ordinary Meetings of the Sacred Rites held today in the Vatican, and the Most Reverend Fathers entrusted with the preservation of the sacred rites, after careful consideration, have decided to respond as follows:

To I. The collect is omitted on that day.

To II. Affirmative for the first part; negative for the second.

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To III. Affirmative.

To IV. Affirmative for the first part; negative for the second.

To V. Affirmative for the first part, except for the Mass for deceased Bishops, which should be celebrated as in number 133, on the day of the Commemoration of all Faithful Departed; negative for the second part.

To VI and VII. Negative.

To VIII. Negative for the first part; for the second, when the Bishop, celebrating the "Indulgentiam, etc.," completes the confession with the Deacon and Subdeacon, the Bishop, remaining in the same place, pronounces the absolution with the Deacons present.

To IX. Negative for the first part; provision is made for this in the first part.

And thus, the Holy Congregation responded and ordered that it be observed on March 5, 1870.

FROM GUATEMALA. Raymond Solis, Priest and Parish Priest in the Archdiocese of Guatemala, having, through an unfortunate accident, lost the strength and movement in his right leg to such an extent that, although he can stand for a short time, he cannot remain in that position, nor can he walk, sit, or rise without the aid of a cane or some other assistance; he considered that he could perform his parochial duties and celebrate the sacred Mass Sacrifice with the help of another man.

However, after hearing the advice of prudent and learned men, he began to doubt his method of acting, and he omitted the celebration of Mass, and he addressed prayers to the Sacred Rites Congregation, earnestly requesting an Apostolic privilege to celebrate the sacred Mass Sacrifice with the assistance of another man.

The same Holy Congregation, of this kind...

[*Latin ed. p. 134*]

I 34 A PP. IX, n. precibus rescribere rata est: "Con-praeventus, nec iura a partibus exsulendum SSmo pro gratia. Die 5 Martii 1870. Facta autem de praedictis per spenso mansit, donec occasione visitationis ab hodierno Episcopo tuum Congregationis SSmo D. N. Maceratensi aperiendae iterum controversia exarsit. Ad eam igitur dirimendam novas preces cititas Sua benigne pro gratia ad Sacrae huic Congregationi Episconuere dignata est: commisitque Rmo Domino Archiepiscopo Guati-malensi, ut eidem Sacerdoti sacro-Missae sacrificium modo exposito celebrare permittat, iis exequi nequiverat. Et Orator sedulo mandatis obsequens iura a iniunctis conditionibus quae eidem Rmo Archiepiscopo opportunae vi- Partibus exhibita nec non Informationem et Votum suum transmisit. Hisce peractis ac Voto in scriptis super controversia ipsa exarato ab altero ex Apostolicarum Congregationum Magistris, tria insequentia dubia ab infrascripto Secretario cl: me: pro opportuna solutione proposita fuerunt, nimirum:

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MACERATEN. Quum totus Clerus Civitatis Maceratensi insimul incedit, Canonici Collegiatae Ecclesiae Sancti Salvatoris praecedentiam praetendunt super Mansionarios Cathedralis. Qui aegre ferentes rem saepius reclamarunt, ac tandem anno 1857 ad Sacram Rituum Congregationem recursum habuerunt, eique nonnulla dubia hac super re solvenda proposuerunt. Sacra vero eadem Congregatio antequam quidquam decerneret Rmo Domino Amadeo Zangari tunc Episcopo Maceratensi commisit, ut, auditis interesse habentibus, votum suum Sacrae eidem Congregationi panderet super controversia ipsa. Verum cum praelaudatis Episcopus forsan morte...

DUBIUM I. An quando totus Clerus Saecularis insimul incedit, sub unica aut absque ulla Cruce, sit vel non sit chorali habitu indutus, Mansionarii debeant se seiungere a proprio Capitulo, ut locum cedant Canonicis Collegiatae qui praecedentiam praetendunt vi Bullae editae die 21 Aprilis 1476 a Locumtenente cl: me: Cardinali Iuliano Legato a latere in Marchia fel. recor. Xysti Papae IV., in qua erectio ipsius Collegiatae confirmatur, et in qua haec verba leguntur, nimirum Canonicos praedictae Collegiatae debere sedere, stare, incedere in omnibus Functionibus immediate post Canonicos Cathedralis?

DUBIUM II. An supra relata verba Bullae sedere, stare, incedere...

[*Latin ed. p. 135*]

IX. II. Regarding these matters, it must be understood and it is necessary that, as previously mentioned in the Canons, precedence is given to the Cathedral Canons before anything else; and that no external moral body, whether from the Cathedral or from elsewhere, should be present before the Mansionaries, who, together with the Cathedral Canons, form a single moral body; and that these Mansionaries should never be separated from them, especially since the Mansionaries of the institute in question did not yet exist when the Bulla mentioned above was issued.

DOUBT III. When should the Mansionaries incense and receive the Pax, if the Chapter of the Collegiate Church assists in the functions of the Cathedral: namely, after the last Cathedral Canon, or after the last Canon of the Collegiate Church, as the Canons of the same Collegiate Church contend, citing the words of the aforementioned Bulla, contrary to the established practice and custom of Cathedrals, and especially of the Metropolitan Church of Fermo?

And the Sacred Congregation, after mature and thorough consideration of the proposed doubts, decided that the following answers should be given: To I, No. To II, No to the first part; affirmative to the second. To III, as above. And so it responded and ordered that it be observed on March 5, 1870.

POSEN. When the statutes of the Metropolitan Chapter of Posen were be-

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ing revised, the Most Reverend Monsignor Miecislaus Ledochowski, Archbishop of Gnesen and Posen, presented the following to the Congregation of Sacred Rites: that, by virtue of the most ancient custom always observed, and still in force today in the Metropolitan Church of Posen, the precedence of the Suffragan Bishop in the choir and in the Chapter is regulated in the manner established in the ordination of Bishop Timothei Gorzénski of Posen, made in the general Chapter in the year 1810. This ordination is of the following tenor: namely, § 49. "Reaffirming the ancient statutes and decrees of Andreae de Brin Op;lénski and Adalberti Tholibow?ki, our predecessors, concerning the election and precedence of the Suffragan Bishop, and further emphasizing the laudable custom observed in this Cathedral Church, which has the force of law, the Suffragan Bishop of Posen shall have the first place in processions, and in the stall and in the Chapter, for the sake of his dignity, if he is a Prelate; if he is only a Canon, he shall have the first place among the Canons, without regard to the order of his calling."

Since the Chapter wished to maintain this observance also in the future, it was included among the new statutes. However, the Most Reverend Monsignor Franciscus Stefanowicz, Bishop of Samosata, and the current Suffragan Bishop of Posen, has issued a protest against this, asserting that precedence is due to him from several Decrees of the Sacred Congregation of Rites. Therefore, the aforementioned Monsignor humbly requested of the same Sacred Congregation: Should the protest of the Suffragan Bishop, who is entitled to canonical precedence in the aforementioned Metropolitan Church, be taken into consideration, granting him precedence in the choir above the Dignitaries; or rather, should the ancient custom be maintained?

[*Latin ed. p. 136*]

136 Concerning the observance to be maintained, as described in the aforementioned Ordination of Timothy Gor zénski? The Holy Congregation, having carefully considered the matter and heard the opinion of the Masters of the Sacred Ceremonies, and in accordance with other ratified decrees, has decided as follows: In all matters, precedence belongs to the Canonically Suffragan Bishop. And thus it was decreed and ordered to be observed on March 5, 1870, in VICENTINA. The Reverend Guido Giacomelli, Mansionary of the Church of Saint Peter in Cologne, Venice, to whom the care of ordaining and preparing the Calendar for the Clergy of the Venetian Colony was entrusted, proposed the following questions to the Sacred Congregation of Rites, namely:

QUESTION I. Whether the Clergy of the City and District of Cologne, Venice, ought to follow the most ancient custom of celebrating the Feast of the Holy Felix and Fortunatus, the principal Patrons of the aforementioned City and District, under the double rite of the first Class, and with the

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Octave, and the Feast of Saint Vincent the Martyr for the entire Diocese, under the greater double rite?

QUESTION II. Whether, in the case where the Feast of Saint Vincent the Martyr is to be celebrated under the greater double rite alone, it should be joined with the Feast of Saint Anastasius the Martyr.

QUESTION III. Whether the Clergy of the District ought to conform to the Calendar of the Clergy of the City in the performance of the Divine Office?

QUESTION IV. Whether both precepts, namely, the observance of fasting and the abstention from servile work, ought to be observed on the Feast of Saint Vincent, or on the Feast of the Holy Felix and Fortunatus?

QUESTION V. Whether, in the District, the Feast of Saint Vincent or of the Holy Felix and Fortunatus ought to be observed with both precepts.

The same Holy Congregation, having heard the opinion of another of the Masters of the Sacred Ceremonies, and having carefully considered the matter, decided as follows: Regarding Question I and II: Affirmative. Regarding Question III: The Clergy of the District ought to conform to the Diocesan Calendar, and in the absence of that, to the Calendar of the Clergy of the aforementioned City. Regarding Question IV and V: Negative in the first part; affirmative in the second. And thus it was decreed and ordered to be observed on March 5, 1870, in SAINT JAMES OF CHILE.

When the present Archdeacon of the Metropolitan Church of Saint James of Chile humbly inquired of the Sacred Congregation of Rites: Whether the thurification, the sprinkling of Holy Water, and the Kiss of Peace should begin from the right side of the choir, if no one more distinguished is present on that side, or should begin from the left side if a more distinguished person is present on that side; the same Holy Congregation, upon the report of the Secretary, and having also heard the opinion in writing of another of the Masters of the Sacred Ceremonies, decided that it should be written as follows: One should follow the prescription of the Ceremonial of Bishops, Book 1, Chapter XXIV, namely, that it should begin with those who are more distinguished. And thus it was decreed.

[*Latin ed. p. 137*]

On August 20, 1870, the following was ordered: IN VISENSI. The Reverend Edward de Figueiredo Veiga, Master of Ceremonies in the Cathedral Church of Viseu in Lusitania, having reported that in certain places within the diocese, there is a custom of transferring sacred images of the Saints from house to house, and that in these transfers, clerics, not wearing ecclesiastical vestments and not separated from the laity, walk, with a priest presiding, he humbly inquired of the Sacred Congregation of Rites: I. Whether such transfers of sacred images should be considered as true

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ecclesiastical processions? II. Whether clerics participating in these transfers may proceed without ecclesiastical vestments, and with their heads covered? The same Sacred Congregation, having considered the response of the undersigned Secretary and having heard the opinion in writing of another of the Masters of the Sacred Ceremonies, decided to respond as follows: To I. In the negative, and the Bishop should ensure that clerics do not participate in these transfers in any way. To II. As provided in the first response. And thus it responded on August 20, 1870. FROM NICARAGUA. When the Most Reverend Emmanuel Alloa, Bishop of Nicaragua, humbly inquired of the Sacred Congregation of Rites: Whether the custom, introduced not many years ago, by which the canons of the Cathedral Church of Nicaragua use a rochet in performing sacred functions, and always wear a ring, even during the celebration of the Holy Sacrifice of the Mass, should be tolerated, or rather, abolished, the same Sacred Congregation, having considered the response of the undersigned Secretary, and having heard the opinion in writing of another of the Masters of the Sacred Ceremonies, decided to respond as follows: In all respects, in the negative, unless a special Indult is obtained from the Holy See, and the Bishop should ensure that these abuses are eliminated as soon as possible. On August 20, 1870. IN ROSEN. The Most Reverend Renatus Maria Carolus Poirier, Bishop of Ross, having reported that in many places, especially in missions, there is only one priest who ministers there as a parish priest, he inquired of the Sacred Congregation of Rites: Whether, in the case of a parish priest who is ill on the day of the Lord's Supper, and therefore unable to celebrate Mass and consecrate the Host, he may use a Host consecrated on another day for the Mass of the Precious Blood, if, feeling better, he can perform the function of preparing for the feast due to the presence of the people? The same Sacred Congregation, after hearing the response of the undersigned Secretary, and having heard the opinion in writing of another of the Masters of the Sacred Ceremonies, decided as follows: In the negative. On August 20, 1870. VICARIATE APOSTOLIC OF TUNQUINI MERIDIONALIS. The Most Reverend Ivo Maria Croc, Bishop of Laranden, and Coadjutor Vi-

[*Latin ed. p. 138*]

APPENDIX I, section 138. The Apostolic Vicar of Tunquín, Bishop of the Conception, desiring to provide for the proper observance of the Sacred Rites, and lest the flock of Christ be deprived of nourishment, and lest, to the detriment of souls, things be done in the aforementioned Vicariate which cannot be performed in the Holy Churches, because the Congregation of Rites is small in number, and because certain matters are not customary in the churches there, he inquired:

I. Whether the faithful, following the decree of the aforementioned Congregation, may recite the aforementioned Offices in the Spanish language?

II. Whether this practice can be tolerated?

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III. Whether it must be expressly prohibited? And if so, he requests a dispensation for this purpose.

The Sacred Congregation, having heard the report made by the undersigned Secretary, responded as follows on August 20, 1870:

MOST HOLY CONCEPTION OF CHILE. Since, throughout the entire Diocese of the Most Holy Conception of Chile, indeed throughout the entire Republic of Chile, for a long time past, contrary to what was established and ordered by Pope Pius V in the Bull or Constitution "Superni Omnipotentis" dated March 11, 1571, the practice has prevailed among pious persons, especially among the tertiaries of the Regular Orders, of reciting the Little Office of the Blessed Virgin Mary in the vernacular Spanish language, and since many copies of this Office are distributed throughout the homes of the faithful and are publicly sold in bookstores, and since the Bishops have, until now, been silent, even approving of this practice; and since the translations of this Office, both those printed in Paris and those printed in St. James, appear to be faithful to the Latin text; the Reverend Father Joseph Hippolytus Solos, of the aforementioned Diocese, humbly requested that this custom be tolerated, provided that the Ordinary takes care to ensure that the Latin text is present in another column in the Office book. And so he responded on August 20, 1870.

PEACE. The Reverend Father Ferdinand Ramírez y Vásquez, Bishop of Peace, humbly requested a solution from the Sacred Congregation regarding the following doubt: Whether, when a Cathedral Chapter has a statute that Canons, without honorary distinctions and wearing only their canonical habit, participate in all Chapter acts, can they, in these acts, receive a distinction of dignity or honor:

1. Those who are secret or honorary chamberlains of His Holiness?

2. Those who have been invested with another ecclesiastical dignity?

3. Those who are civil...?

The Sacred Congregation, having considered the report made by the undersigned Secretary, responded as follows regarding question 1 of the aforementioned doubt: Secret chamberlains...

[*Latin ed. p. 139*]

APPENDICES and those holding honorary positions may wear a violet sash beneath their canonical habit, notwithstanding the statute mentioned: Ad 2 Dilata, and they shall specify in particular what these ecclesiastical dignities are: Ad 3 Canonici, in this case, shall comply with the Chapter Statute. And thus it was written on August 20, 1870.

ERIE. The Most Reverend Tobias Mulier, Bishop of Erie, proposed the following questions to the Congregation of Sacred Rites, namely:

QUESTION I. Whether, when other officials, mentioned in the Ceremonial of Bishops, are not available, a priest can celebrate Pontifical Mass with

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a deacon and a subdeacon?

QUESTION II. And whether, on Sundays and other feast days, in the absence of a priest who performs this office, the last Mass sung in his cathedral can be celebrated alone?

QUESTION III. And also whether, when requested by the faithful to celebrate a sung Mass for the Dead, he should alone celebrate it, thereby granting their prayers?

QUESTION IV. Whether the priests of the Diocese of Erie can sing the Mass for the Dead on double feasts?

The Sacred Congregation, having heard the report of the undersigned Secretary, and also the written opinion of another of the Masters of the Ceremonies of the Apostolic See, responded as follows:

To I, II, and III: Negatively.

To IV: The Mass for the Dead cannot be sung on double feasts without an Apostolic Indult.

And thus it was written and ordered to be observed on August 20, 1870.

MILAN. The Rector of the Seminary for Foreign Missions, established near the church dedicated to Saint Calocerus in the City of Milan, stated that, from time immemorial, in the City and Archdiocese of Milan, it has been the practice that priests of the Roman Rite, while performing some office, whether with religious congregations, or with institutions, whether ecclesiastical or civil, or even with private families, freely perform public ecclesiastical functions according to the Ambrosian Rite; however, the aforementioned priests abstained from following the same rite in the celebration of the Holy Sacrifice of the Mass, in reciting the canonical hours, and in the administration of the Sacraments. This practice has continued until now among the priests residing in the aforementioned Seminary. However, since some of them now doubt whether priests of the Roman Rite, who follow this practice, are acting correctly, notwithstanding the custom, the aforementioned Rector humbly requested the Sacred Congregation of Rites to grant a dispensation for the continuation of this practice.

The Sacred Congregation, having heard the report on all matters made by the undersigned Secretary, and also the Opinion and Vote requested of the Most Reverend Aloysius Nazari di Calabiana, Archbishop of Milan, considered it appropriate to respond in accordance with the vote of the aforementioned Most Reverend Archbishop, namely:

[*Latin ed. p. 140*]

APPENDIX I, section 140, concerning customs to be observed. And thus, the Most Reverend Lord Andrea Casasola, Archbishop of Udine, wrote to inform and to request a response on August 20, 1870.

UDINE.

The Reverend John Chrysostom Colmano, the current Rector of the

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parochial church of the town of Furni inferiore, located within the archdiocese of Udine, stated that the practice of blessing the people and the houses and fields at designated stations, especially before the procession outside the church with the Holy Sacrament, has been observed in that parish from time immemorial. However, when the same practice was forbidden by decrees of the Sacred Congregation of Rites of July 9 and 19, 1687, and of September 23, 1823, the last parish priest, who began to administer that parish in 1857, attempted to abolish this practice. But such contention arose among the people from that suppression, that even the tithes were denied to the parish priest. The matter was brought before the ecclesiastical court, which sought to resolve the issue; however, it was impossible to enforce the aforementioned decrees of the Sacred Congregation. Therefore, the one who now holds the office of administrator in the aforementioned parish, seeing that this practice cannot be abolished, and that it also exists in neighboring parishes, humbly requested that, considering the circumstances of the times and places, it might be permitted to continue. The Sacred Congregation itself, having heard the report on all matters made by the undersigned Secretary, and also considering the following:

I. The missionaries who belong to Ireland in the aforementioned Vicariate Apostolic introduced the custom of blessing marriages outside of Mass, using those prayers which are found in the Missal for the bridegroom and bride. Since Anglo-Indians desire that their marriages also be blessed in this manner, some of the missionaries favor the wishes of these people, while others are hesitant about what should be done.

II. Since the liturgical practices of the Irish missionaries in India regarding the blessing of marriages differ from the Roman Ritual, the question is raised whether the Irish missionaries, and also those of other nations, may use these practices in the blessing of marriages.

[*Latin ed. p. 141*]

[X ii. Concerning Marriages, not only if it concerns the Irish, but also concerning Catholic natives and those of other nations. The Sacred Congregation of Rites, having heard the report of the undersigned Secretary, and having considered the written opinion of another of the Masters of the Apostolic Ceremonies, decided to respond as follows: Let what was decreed be observed, as commanded by His Most Holy Name, Pope Pius IX, in Limburg, on the 23rd of June, in the year 1853. And thus it responded on the 20th of August, 1870. LITOMERICIEN. Benedict, Pope XIV, by Apostolic Letters in the year 1744, on the 17th of the Kalends of April, sealed with lead, granted to the Chapter of the Cathedral Church of Litomericien, to the Canons of that Church, the perpetual use of the Great Caps, as well as to the Dean and the Senior, the use of the Infula and the Sandals. However, since the aforementioned privileges, granted by Apostolic Letters in the form of a

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Brief, given by the Most Holy Pope Pius VII, whose beginning is "Decretum Romanorum Pontificum," on the 4th of July, 1823, do not explicitly consent to the use of such privileges; so that the Canons, the Dean, and the Senior, in order that they might use these privileges in the future, were obliged to present these privileges for examination to the Sacred Congregation of Rites. But this has been omitted until now, and only now has it been taken care of by the present Bishop of Litomericien, who has presented to the same Sacred Congregation the rights that can benefit his Chapter, and has earnestly requested that same Congregation to maintain, and, if necessary, to renew the confirmation of these privileges. And the same Sacred Congregation, having heard the undersigned Secretary, having considered the reasons presented, seriously and diligently, and having also considered the opinion of another of the Masters of the Apostolic Ceremonies, decided to respond as follows: Let the clergy hold in possession the privileges that were granted to them by the aforementioned Bull of the blessed memory of Pope Benedict XIV. On the 20th of August, 1870. Having made a report to His Most Holy Name, Pope Pius IX, through the undersigned Secretary, His Holiness graciously approved. On the 1st of September of the same year. CASALEN. The Most Reverend Dom Peter Mary Ferre, Bishop of Casale, having found, especially in the performance of Pontifical ceremonies, customs contrary to the Ceremonial of Bishops, which he himself is hesitant to tolerate because of the force of custom, humbly requested a solution to the following doubts from the Sacred Congregation of Rites: DOUBT I. In the Cathedral Church of Casale, when the Pontifical Mass is celebrated, the singing of the Hour of Terce is not performed before the Mass, as prescribed in the Ceremonial of Bishops. Is this custom to be tolerated, since there is no custom, nor is there a rubric in which the aforementioned Hour of Terce should be sung? DOUBT II. The Canons of the Cathedral, in the same Pontifical Mass, do not put on their vestments in the choir in their own seats, but in the sacristy, and...

[*Latin ed. p. 142*]

142. It is fitting, rather than that they stand in the choir, during the times of Mass and Vespers, which are celebrated pontifically, that they have their own seats in the presbytery, from which they do not depart, except to approach the seat of the Bishop, in order to recite with him the Gloria, the Creed, and other prayers prescribed by the *Caeremoniale Episcoporum*. The question arises whether this practice can be tolerated.

DUBIUM III. Concerning the Archdeacon, to whom, according to the *Caeremoniale*, it pertains to hold the book while the Bishop, celebrating pontifically, reads the Gloria and the Creed; concerning the Subdeacon, prepared, to whom it pertains to bring the sandals to the Bishop; concerning the Subdeacon, also prepared, to whom it pertains to sing the chapter of Vespers, these things are all done by clerics wearing the *pluvialis*. Can

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all of these things be tolerated because of long-standing custom?

DUBIUM IV. In the solemn Pontifical Blessing, concerning the formula prescribed, to which the singers of the choir should respond, should the Bishop only recite the common formula, or can he conform himself to this practice?

DUBIUM V. On the occasion of processions of the Holy Relics, Rogations, etc., in which the entire urban clergy should participate, do the parish priests of the city, who attend these processions wearing the *mozzetta* with the stole, proceed with three processional crosses held before them? Can this manner of acting be tolerated, even if it has been prescribed in a certain diocesan synod?

The Sacred Congregation, after considering the report of the undersigned Secretary, having heard the written opinion of another of the Masters of the Apostolic Ceremonies, and having carefully and maturely considered the matter, has decided as follows:

I. In a Pontifical Mass celebrated by a diocesan Bishop, the cantus of the Third Hour should always be recited beforehand, and if there is no secretary in whom this can be done, the aforementioned Third Hour should be recited in the same place where the Mass is celebrated; however, this should be omitted in the case of a procession.

II. The canons can take the sacred vestments in the sacristy; if, however, the sacristy is located elsewhere, they can take them in their own seats, from which they should not depart in order to make the circuits, which should not be made by canons wearing the sacred vestments.

III. In this case, the book should be held by a presbyter assisting; also, the Subdeacon should bring the sandals, with which the Bishop is clothed by the *scutiferi*, but the Subdeacon should remain before the Bishop while this is being done. Regarding the singing of the chapter, it can be tolerated, given long-standing custom, that it be done by a cleric wearing the *pluvialis*.

IV. The formula prescribed by the *Caeremoniale Episcoporum*, Book II, Chapter XXIX, should be observed.

V. The parish priests can use the *mozzetta* and stole, provided they proceed collegially and enjoy the Apostolic privilege. However, they cannot hold their own processional cross elevated before them, but should proceed under the Cathedral cross. The custom, even if prescribed in a diocesan synod, is contrary to the Decrees and must be abolished.

And thus it was decided, declared, and ordered to be observed on August 20, 1870.

Hieracen.

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Reverend Monsignor Caietan Scaglione, Capitular Vicar.

[*Latin ed. p. 143*]

The Bishop of the Diocese reported to the Congregation of Sacred Rites that in all parochial churches throughout the entire Diocese, the custom prevails for simple priests to celebrate Mass daily in said churches, but at hours which do not impede the regular parish functions, and also to use the sacred vestments belonging to the same church. Meanwhile, the parish priest of the church of Saint Mary of Mount Carmel, in Mammula, where such a custom is observed, denied sacred vestments to a certain priest, without a reasonable cause, not once, but repeatedly; and neither words nor prayers of the Capitular Vicar were able to dissuade the parish priest from his obstinacy. Therefore, the same Capitular Vicar humbly requested the Sacred Congregation: I. Whether this custom should be maintained as if it were a law? II. If the answer is affirmative, can the Vicar prescribe the observance of this custom, even threatening canonical penalties against those who transgress?

The Sacred Congregation, after considering the report of the undersigned Secretary, decided that the following questions should be answered: The Capitular Vicar should exercise his ordinary rights.

December 10, 1870.

VISEN.

Since the Decree of the Congregation of Sacred Rites of September 2, 1741 states in the daily Masses for the dead, that the second prayer, namely, "God grants forgiveness," can sometimes be replaced with another, e.g., "for father, for mother, etc.," and that the same Sacred Congregation, under the date of July 1, 1851, had responded that the second prayer may be permitted at the discretion of the celebrant; and that on August 12, 1854, it had responded that, sometimes, the prayer for father and mother may replace the second prayer, the Reverend Edward de Figueredo Vega, Master of Ceremonies of the Cathedral Church of Visen, in Lusitania, humbly requested the aforementioned Sacred Congregation: I. Whether, in the aforementioned Masses, the second prayer can always be changed at the discretion of the celebrant? II. Do the cited Decrees of 1741 and 1854 speak definitively, so that the aforementioned replacement can only take place with regard to the prayer for father and mother, and not for others; and in which specific cases can this replacement take place?

The Sacred Congregation, with the reference to the undersigned Secretary, decided that the following should be answered: Let the previously given Decrees stand. And so it responded on December 10, 1870.

URBIS Seminary of Grallice.

The Master of Ceremonies, to whom the task has been entrusted by the Sacred Congregation of Sacred Rites to instruct the students of the Semi-

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nary of Grallice in the City, in matters pertaining to the sacred rites and ceremonies of the Church, humbly requested a solution to the following two questions:

QUESTION I. Since in the Decree of Pope Pius VII, with the authority of January 1, 1808, concerning the collection for...

[*Latin ed. p. 144*]

444 APPENDIX II. The following should be read concerning the edition of Gardel: "His Holiness desires that in judgments and in any dispute, only the authority of those Decrees be valid which are contained in this edition, which have been permitted and approved by Him." It is asked, to whose authority do the Decrees of the Sacred Congregation of Rites belong, which, although certainly authentic, are not found in the aforementioned Gardelinian Collection?

DOUBT II. Assuming the distinction of the Decrees of the Sacred Congregation of Rites into Decrees formally General, equivalently General, and Particular, can the opinion recently advocated by a certain Doctor from Germany be maintained, namely, that only those Decrees are universally binding which are formally General, or equivalently General, so that they are not issued for a particular reason for some place or Diocese, and moreover, have received the approval of the Supreme Pontiff?

The Sacred Congregation, after hearing a report made by the undersigned Secretary, and also the opinion in writing of another from the Masters of the Apostolic Ceremonies, considered it necessary to respond to the proposed Doubts:

To I. The Decrees of the Sacred Congregation of Rites, which, although they are not found in the Gardelinian Edition, are nevertheless authentic, possess the same authority as those which are read in that Edition: provided that these Decrees, placed outside the Gardelinian Collection, are not contrary to the Decrees contained in the same Collection.

To II. Consult approved Authors.

And thus it was written on December 10, 1870.

SANCTI HYACINTHE. The Most Reverend Bishop of Saint-Hyacinthe reported to the Sacred Congregation of Propaganda Fide that in the entire ecclesiastical Province of Quebec, the custom had prevailed of singing hymns in the vernacular language during the celebration of the Mass. Since this is prohibited by the Decrees of the Sacred Congregation of Rites, the Bishop endeavored to warn the clergy and the faithful to conform to these Decrees. However, the matter did not cease according to the Bishop's wishes; for the same practice continues in the churches of his Diocese. Wherefore, the Bishop, being in a quandary as to what was necessary to do, requested that it be declared: Should this custom be tolerated, or rather, should it be entirely abolished?

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When the aforementioned Sacred Congregation of Propaganda Fide had transmitted the prayers of the aforementioned Bishop for a suitable solution to this Sacred Congregation of Rites, the latter, after hearing a report made by the undersigned Secretary, and also the opinion of another from the Masters of the Apostolic Ceremonies, responded, having ratified the matter: The Bishop should act prudently, so that he may gradually remove this custom without causing scandal to the faithful.

And thus it was written on December 10, 1870.

[*Latin ed. p. 145*]

145 FROM THE CONSISTORY ACTS Concerning the Consistory held on September 19, 1879. The Most Holy Pope Leo XIII, after having dismissed the Cardinal title of Saint Paduans, and having desired the title of Saint Lawrence in Lucina; and after having delivered an address, deigned to create and to publicly announce the Cardinals of the Holy Roman Church: From the ORDER OF PRESBYTERS, the Reverend Father Dominic Peter Francis Meglia, Archbishop of Damascus in the Patriarchal See, Apostolic Nuncio in France, born on the feast of Saint Stephen by the Sea, in the Diocese of Ventimiglia, on November 3, 1810. The Reverend Father James Cattani, Archbishop of Ancyra in the Patriarchal See, Apostolic Nuncio in Spain, born in Brisighella, in the Diocese of Faenza, on January 13, 1823. The Reverend Father Louis Jacobini, Archbishop of Thessalonica in the Patriarchal See, Apostolic Nuncio in Austria-Hungary, born in Genzano, in the Diocese of Albano Laziale, on January 6, 1830. The Reverend Father Dominic Sanguigni, Archbishop of Tarsus in the Patriarchal See, Apostolic Nuncio in Lusitania, born in Anxure on June 27, 1809. Then, the same Holiness proposed the following churches: The CATHEDRAL CHURCH of Tlascala, or Angelorum, in Mexico, for the Reverend Father John Francis of Paola Verea, transferred from Linares. The CATHEDRAL CHURCH of Linares in Mexico, for the Reverend Father Joseph Mary Ignatius Montes de Oca y Obregon, transferred from the City of Victoria, which he retains in provisional administration. Acts, Volume XII, page CXXXVI, 10.

[*Latin ed. p. 146*]

146 IN ACTIS CONSISTORIALIBUS: In Bergomo, concerning the Reverend Father Caietano Camillo Guindani, transferred from Burgos Saint Donnini, whom he retains in provisional administration. In the Cathedral Church of Fulginate, concerning the Reverend Vincent Serarcangeli, a priest of Camerino, Archdeacon of that Metropolis, Pro-Vicar General of the same Diocese, Professor of Holy Scripture in the University and of Theology in the Seminary of that City, Pro-Synodal Examiner, and Doctor of Philosophy, Theology, and of both Laws. In the Cathedral Church of Comacina, (which the current Apostolic Administrator retains in provisional administration) concerning the Reverend Aloysius Pistacchi,

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a diocesan priest of Cesena, Canon and Parish Priest of that Cathedral, and of the Clergy, and Examiner. In the Cathedral Church of Meinen, concerning the Reverend Donnino Donni, a priest of the Archdiocese of Pisa, Prefect and Foreign Vicar of Barga in the same Archdiocese of Pisa. In the Cathedral Church of Burgos Saint Donnini, concerning the Reverend Father Manicardi, originally from the Diocese of Reggio, in Emilia, a priest of the Archdiocese of Mutina, Prefect of Saint Adrian of Spum, Professor of Logic and Metaphysics, Pro-Synodal Examiner, and Licentiate in Holy Theology. In the Cathedral Church of Tricarico, concerning the Reverend Angelo Michael Onorati, a priest of the Archdiocese of Acerenza, Archpriest and Parish Priest of the first rank in the Collegiate Church of Miglionico, Pro-Synodal Examiner of the same Archdiocese, and Doctor of Holy Theology. In the Cathedral Church.

[*Latin ed. p. 147*]

147 FROM THE HOLY CONGREGATION OF THE COUNCIL: A DOUBT REGARDING THE IMPEDIMENT TO MARRIAGE OF MARCH 13, 1879. In the present political turmoil, which has stirred and agitated almost all of Europe, many laws have been enacted which considerably restrict the freedom of the Catholic Church, and which either completely overturn its institutions and laws, or at least bring them into disrepute in the eyes of the faithful. Among these, not least is that which compels all subjects to enter into marriage before a lay magistrate, if they wish their children, with regard to civil effects, to enjoy the honor and rights of legitimacy. Consequently, among Catholics, there has long been much discussion and varied opinions regarding the nature and effects of that act, which they call civil marriage, and especially whether, in the eyes of the Church, it has the force of a true marriage, or whether it can be considered as a clandestine marriage, which is null, in those places where the law of the Council of Trent is in force; and therefore, to what extent and up to what point does it create an impediment to public justice and honesty. Since theologians and canonists held divergent opinions, and it was not sufficiently certain what should be held, the doubt was presented to the Apostolic See, and its resolution was requested from the Holy Congregation of the Council. A matter of the gravest importance was being considered, and therefore, caution was necessary. For this reason, in order to bring the matter to such a point of evidence, which would completely exclude all doubt, three reports on this matter of the greatest importance were delayed, along with the time allotted, and for reasons independent of us. Rome, September 25, 1879. The Most Reverend Monsignor.

[*Latin ed. p. 148*]

148. The opinions of those consulted regarding marriages were carefully

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sought; to these were added the deliberations of the Most Reverend Father Secretary, and after all had been thoroughly examined and considered, the question was presented at the plenary meetings of the Sacred Congregation under the form of a doubt, which is written out at the end of this report. Therefore, it will be beneficial, to the greatest extent possible with brevity and clarity, to present to the readers the summary of what was discussed.

WHAT WAS ALLEGED AS OBSTACLES.

Since the principal, indeed the only, question was whether a civil marriage could give rise to an impediment to public justice and honesty, in order that the examination might be complete and absolute in every respect, it was first inquired whether such an impediment would arise from any marriage whatsoever due to the lack of clandestine validity. And in support of an affirmative opinion, arguments were presented based on the writings of Barbosa, Pignatelli, Fagnanus, and others, along with certain resolutions of the Sacred Congregation. Barbosa, Armendaris, Gallsmart, and others, following Farinaccius, cite this resolution, although they do not indicate the title or date thereof: "The Congregation decided that an impediment to public justice and honesty arises from betrothals made by words in the present tense, even if they are not in any way broken." It is noted that Barbosa, in his work "De officio et potestate Episcopi," followed the opinion of Sanchez contrary to this, and that the resolution is not found in all collections, so that some doubt its authenticity. Fagnanus, a most learned and diligent investigator of the books of decrees of the Sacred Congregation, writes twice, although he does not present the actual text, that the Sacred Congregation had decided that "the aforementioned impediment arises from a marriage made by words in the present tense contrary to the form prescribed by the Council" and extends up to the fourth degree.

[*Latin ed. p. 149*]

ON MARRIAGE 149 Concerning betrothals and marriages, n. 11 and 28, and Chapter on Betrothals, n. 2. "Two other resolutions were brought forward, one taken from Pignatelli, Volume VII, Council, 78, n. 6 and following; the other from Monacellio, dated November 8, 1584. Although such resolutions could not be found in the acts of the Holy Congregation of the Council, nevertheless, since Pignatelli speaks of a resolution issued under Pope Gregory XIII, at a time when he himself was living, and individually recounts the discussion of the case; since Farinacci adduces a similar response, and especially since Fagnanus mentions a similar resolution once and again, it was almost certain that this question had been resolved by the Holy Congregation. However, there was no room for doubt in leaving aside the response of the Holy Penitentiary of the year 1820,

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which wrote to a certain parish priest in Savoy, that although there is discussion among doctors, nevertheless, "the affirmative opinion is truer and should be held entirely." From such a marriage (secret, in no way valid), "a public impediment to honesty arises." This is from an external point of view. But it was also added that there were also internal arguments that supported this opinion. Indeed, the Supreme Pontiff, Boniface VIII, in chapter *Unio* of *De spons.*, decreed that an impediment to public justice and honesty arises from betrothals, whether future or present, or marriage, "even if there is consanguinity, affinity, spiritual relationship, religion," or any other reason, "provided that they are not null" because of a lack of consent. The Council of Trent removed this impediment, insofar as it stemmed from null betrothals; but insofar as it stemmed from valid betrothals, it restrained it to the first degree. From this arose the questions of whether the Council spoke only of betrothals for the future, or also of betrothals for the present. To cut short these controversies, St. Pius V, in the Constitution *Ad Romanum*, declared that the decree of Trent concerned only betrothals for the future; but that "the impediment continues in all those cases and degrees in which, according to the old law, before the aforementioned decree, it was established."

[*Latin ed. p. 150*]

150 MARRIAGES » had been introduced. » From these, it was deduced that this question is today in the same state as it was before the Council of Trent. Indeed, from the cited chapter, unity, on betrothals, in VI, it is stated that any marriage, in any way, is null, unless it is so by reason of a defect in consent; therefore, it necessarily follows that even today, a marriage which is null by reason of clandestine circumstances is invalid. The particle "quavis ratione," because it is not merely indefinite and general, but universal, must be interpreted broadly, and it must be extended to odious and future cases, and it encompasses all things; hence, it also includes a marriage that is null because of clandestine circumstances. "Universal clauses," says Barbosa in his *Tractatus varii de Clausulis*, "184, encompass all things, and they should not be restricted, unless there is a reason for restricting them," *Ludov. Morot. cons. 59 n. 1*. "Mart. de elatis, q. 4. claus. 4 n. 1, where he understands that this proceeds even if, although it is to be understood universally, there is a loss of lucidity." "Nothing is excluded, operating in the same way as if a special mention of all had been made," *Mart. d. claus. 4. n. 4*. "After Schräder in his treatise on feudal holdings, p. 10, sect. 5 n. 71, he adds that universal clauses are of greater efficacy than general ones, and therefore encompass all things, without any exception whatsoever." And the same author specifically states that the word "quivis" is equated by interpreters with the word "quicumque," which they say is to be understood as encompassing all things, excluding nothing, and signifying more than is expressly stated," *op. cit. Dictio 317 ii. 1*. The same is stated by Fagnanus,

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chapter *Inter ceteras De Rescrip.*, n. 18. Therefore, those who say that the clause "quavis ratione" could not have encompassed a marriage that is null because of clandestine circumstances should not be listened to, because at the time that decree was issued, clandestine marriages had not yet been introduced, and future cases do not fall under an indefinite provision: for the cited clause is not indefinite, but universal; and there are those who also say that an indefinite proposition can sometimes be equivalent to a universal one. Nor should those be listened to who contend...

[*Latin ed. p. 151*]

OF MARRIAGE 151. The impediment of clandestinity is of a nature distinct from other impediments, and therefore cannot produce the same effect as those; for, given that an impediment of a different nature is present, yet the nature of marriage itself is one and the same, and it is not nullified by clandestinity, nor by any other impediment arising from public decency, and therefore the effect will be the same. Indeed, Fagnanus, speaking of valid and invalid marriages, to the extent that they involve an impediment to public decency, wrote (In cap. Ad audientiam Be spons. et matrim, n. 21) "that there is no reason for distinguishing between them," because the canons which introduced this impediment "considered not the law, but the very fact itself, and the external appearance thereof," as is clear from Cap. Iuvenis in the same title. "For the sake of the honor of the Church, because the spouse is said to be of the Church; where the Pontiff considers not how strong the marriage is, but what is said in fact." Therefore, with regard to the matter itself, it is irrelevant to inquire whether marriages are valid or not in law. However, it is different when consent is lacking, because then no act takes place, even in the eyes of nature; hence it is not surprising that no impediment arises then. And this is what the gloss also says, in the words "habere non potest," meaning that the fact, not the law, must be considered. From these things, it is clear that only two things are required to introduce an impediment to public decency, namely, the fact and natural consent; therefore, it is clear that this impediment must be introduced by no clandestine marriage in which both the fact and natural consent are present. The Council of Trent did not change its intrinsic nature, as is also mentioned in the aforementioned Penitential Decree, but only made what was valid, invalid. However, the discussions which were held in the Council, as some teach, concerned primarily the expediency of the matter, and by no means demonstrated that the nature of the new impediment is different from the nature of the others. With these things established, three principal objections were refuted. The first was derived from the aforementioned Const. of St. Pius V; the second from the legitimacy of consent; the third from the

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form of marriage.

[*Latin ed. p. 152*]

152. OF MARRIAGES. Some maintain that Pope Pius V, in his constitution, did not establish an abstract and general rule that would encompass future and possible cases, but rather spoke only of cases in which the impediment already existed under the ancient law, and therefore could be said to properly and truly endure. They argue that the Pope did not extend the impediment of public decency to any clandestine marriage, but rather declared that such an impediment, to the extent that it arose from existing betrothals or from marriage itself, remained as it did under the ancient law, or could be introduced into a marriage by any means whatsoever, and therefore not even from clandestine circumstances. It was said that it had been sufficiently demonstrated from the foregoing statements that the Pope did indeed establish a general and abstract rule, also applicable to future cases.

Another difficulty was based on the fact that when it is said that the impediment of public decency does not arise from a marriage null by lack of consent, it must be understood that this refers to a legitimately given consent, which is entirely absent in a clandestine marriage. As happens in the other impediment of force and fear, even if there is natural consent, because it was not legitimately given, the stated impediment does not arise.

In contrast, it was observed that the impediment of force and fear is not considered by many to be a positive impediment, but rather one of natural law, and that Pope Alexander III (Chapter 14, De spons.) stated that consent has no place where fear or coercion intervenes; and that marriage is contracted solely by consent, and that when it is questioned, it should enjoy full security.

Furthermore, it was noted that, according to St. Thomas, force and fear destroy the marriage, because when force and fear are present in any act, restitution to the original state can be sought.

Finally, it was stated that marriage is a contract of a unique kind, because in it the lack of consent from one of the contracting parties cannot be supplemented by the authority of anyone; nor, unlike other contracts, can its perpetual bond be dissolved, even if the consent of the contracting parties is present.

But, granted and conceded, the impediment of force and fear...

[*Latin ed. p. 153*]

It is certainly not to be denied that the simple legal validity of MARRIAGE, in itself, directly affects the consent, and that clandestine marriages are entirely ineffective; and since complete freedom is necessary for marriage, everyone sees that force and fear create an impediment, at least according to the natural law which is said to be secondary; whereas,

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on the contrary, the presence of a priest and witnesses is, by positive law, established as necessary. Hence, it is not surprising that, when there is no marriage by force and fear, no impediment to public decency is created; whereas, on the contrary, it arises from a marriage that is clandestine. A third difficulty arises from the form of marriage. It was objected that an act was required to create the impediment in question, an act which must at least have the external form of marriage; but a clandestine marriage has neither the form nor the appearance of marriage in those places where the decrees of Trent have been promulgated; and in order that a marriage may be considered as an act, the presence of a priest and witnesses is necessary and essential; for the ancient form of clandestine marriage was destroyed by the Council. To this objection, it was replied that the form of marriage can be considered either as a contract, or as a sacrament. As a contract, the form of marriage is either natural, and consists in the mutual, legitimate consent expressed between suitable persons; or it is civil, and the legitimacy of the consent and the suitability of the persons must be considered not only in relation to natural law, but also to civil law; or it is an ecclesiastical form, and then, where the law of Trent has been promulgated, it is required that the consent be legitimately expressed before a priest and witnesses. But if marriage is considered only as a sacrament, then its form, if the minister of religion is absent or passive, is the expression of mutual, legitimate consent, and this form is confused with the natural form. From these considerations, it becomes clear that consent is intrinsically essential to marriage, considered under any aspect, and constitutes its substance; whereas the solemnity imposed by Trent is required as an essential quality, an external matter and form superadded. Hence it has happened that the natural consent, which...

[*Latin ed. p. 154*]

Before the Council of Trent, marriage among Catholics was also a fully efficacious cause of the sacrament; afterwards, it became only a partially efficacious cause. Furthermore, according to divine institution, at least in some cases, the form of the sacrament of marriage is the mutual consent, legitimately expressed between capable persons; whether some precaution or solemnity, such as the presence of witnesses and a priest, is necessary to avoid evils that might arise from the abuse of this sacrament, Christ left to the Church to determine; and since this essential quality has been added by the Church, today consent is only partially the efficacious cause of the sacrament, since also the manner in which consent must be expressed is prescribed. With these things established, it was declared that in a clandestine marriage, the natural form remains, which today is prevented by Church law from producing its full effect; therefore, it can rightly be asserted that such a marriage has the figure and form of a marriage, albeit an incomplete one. This doctrine is confirmed by the practice of the Holy

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Penitentiary, which usually heals clandestine marriages at their root, a healing authorized by Benedict XIV. In Quaestiones Canonicae 74 §, it is stated that this can occur « when a marriage has been contracted de facto and marital affection has intervened, together with natural consent », and that the union has « the outward appearance of a just » marriage, and that the union has not been manifestly fornicated. After these and other matters of lesser importance have been discussed, and after theologians and canonists who hold opinions for or against have been considered, it was concluded that the opinion that a clandestine marriage gives rise to an impediment to public justice and honesty is the more common and safer opinion. After these things, the examination proceeded directly to that act or ceremony to which the name of civil marriage has been given. And with the opinions of those who either absolutely affirm, or absolutely deny, that an impediment to public honesty arises from it, having been mentioned, and with the opinion of those who maintain that that act has the force of betrothal being rejected (of which we shall speak later), then—

[*Latin ed. p. 155*]

Regarding MARRIAGES: It was debated whether a marriage could be considered clandestine, even when the contracting parties, either misled or unaware of the ecclesiastical laws, entered into a true marriage solely through a civil act; for it could not be doubted that no marriage existed if the contracting parties understood nothing other than the performance of a civil ceremony. Thus, the impediment to public decency arising from a civil marriage was deduced from the response given by the Holy Penitentiary on March 13, 1820. A certain parish priest of Savoy had inquired: "Does a marriage contracted before a civil official, when the contracting parties could have gone to their own parish priest or another priest delegated by him, constitute an impediment to public decency?" And the following response was given: "Marriages contracted before a civil magistrate, when the contracting parties could have recourse to their legitimate pastor or to another priest delegated by him, are considered clandestine in the eyes of the Church. However, marriages that are valid, even if clandestine, do not constitute an impediment to public decency, and this, up to the fourth degree, as stated in the declaration of Pope Pius V and the Cardinals, as mentioned in the aforementioned response. Therefore, these civil marriages also give rise to the same impediment, and that even if they have not been consummated." Furthermore, it is noted in the records that this type of response was approved by His Holiness Pope Pius VII. The Holy Tribunal, in the same judgment, responded to inquiries regarding the years 1835 and 1843. Moreover, in the Instruction of Cardinal Caprara, marriages were called clandestine, namely, marriages null and void due to clandestinity, not only those celebrated before some foreign priest, but also those celebrated only civilly, when recourse to their own parish priest or legitimate

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superior was possible. Therefore, since it cannot be denied that the terms used in the aforementioned Instruction were contrary to the meaning of the Council of Trent, it must be said that a civil marriage is truly a clandestine marriage, and no marriage at all. This was further confirmed by the practice of the Holy Penitentiary, which...

[*Latin ed. p. 156*]

156. Civil marriages often corrupt marriages at their root; therefore, the observations made above concerning clandestine marriages apply to these as well. Finally, Scavinio (Moral Theology, Vol. IV, n. 413) states that the Pontifical Summary of Pope Pius VI, written to the Bishop of Geneva, declared that those who attempted to perform a civil marriage incurred the sentence of excommunication "not only by the very act itself" (Clementines, Chapter 1, on councils and appeals), but were also subject to the irregularity of bigamy (Chapter 12, on unlawful bigamy), unless they restored the abandoned woman and repaired the public scandal. It is necessary to note in this response that no distinction is made between a marriage attempted by a Catholic priest, whether he be in communion or a schismatic, or by another priest, and those marriages celebrated before a magistrate; and therefore, these are also considered to be null marriages. All of this, considered externally. But what if we consider it internally? Indeed, in a civil marriage, two elements are found: a natural element and a human element. The natural element is the mutual consent, expressed externally, with the intention of entering into marriage; and this is sufficient to consider the marriage clandestine. In addition, there is the human element, or the civil ceremony, which does not destroy the natural element, for the useful is not vitiated by the useless; and therefore, a civil marriage must be considered entirely clandestine. This doctrine is confirmed by the authority of Peter Avanzini, who in his commentary on the Apostolic Constitution taught that a civil marriage has the appearance of a true marriage. These arguments are not weakened by those who oppose this view, namely, that the Sacred Penitentiary declared that a civil act, before God and the Church, has no validity as a contract; and that the faithful, after entering into a religious marriage, should not appear before a magistrate with the intention of performing nothing other than a mere civil ceremony, according to the letters of Pope Benedict XIV, "Redditae nobis," dated September 17, 1746.

[*Latin ed. p. 157*]

157. From this, it can easily be deduced that an impediment cannot arise from a mere civil act. These were said not to be valid because a civil act can be understood in two senses: absolutely, when it is excluded from any notion of the sacred and natural, and when the contracting parties have no intention of obligating themselves, and propose only to renew their consent before the Church; relatively, that is, with the exclusion of any

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civil obligation, but not with the exclusion of any natural form or figure of marriage, which may pertain to such an act. And the Holy See has declared on several occasions that a civil marriage, condemned by it, is nothing other than a mere civil act. Pope Benedict XIV, writing to missionaries in Holland, when the faithful of that region, after having given their consent, either before a civil official or before a heretical minister, considered themselves to be legitimate spouses, declared that such a marriage "cannot be sustained either in the nature of a sacrament, nor in the nature of a contract," and that it cannot be considered valid in any way; and he immediately added: "Let those entrusted to your care know that when Catholics present themselves before a civil magistrate or a heretical minister for the purpose of celebrating a marriage," they are performing a mere civil act... and, furthermore, at that time, they are not contracting a valid marriage." From this context, it is clear that a mere civil act is spoken of, not to exclude any form or figure of marriage, but insofar as this act is opposed to a valid marriage. The same must be said of other declarations of the Holy See, and also of the allocution of Pope Pius IX on September 27, 1852, in which a civil marriage was condemned as a shameful concubinage; namely, to the exclusion of a valid marriage, because any marital union, valid only in the civil forum, is a shameful concubinage; but this does not exclude the natural form of an invalid marriage. When, however, the Church allows its faithful to appear before a civil magistrate, such an act is understood in an absolute sense, insofar as the contracting parties do not intend to obligate themselves either naturally or civilly.

[*Latin ed. p. 158*]

158. Having considered these criteria, it easily appears to any reader that in a civil marriage (according to the meaning with which the question was originally proposed), that natural element is present which, as stated above, causes it to be the case that no impediment to public justice or honesty arises from a clandestine marriage, up to the fourth degree; and therefore, nothing prevents an impediment from being introduced, even in a civil marriage, up to that same degree.

CONVERSELY, THE IMPEDIMENT WAS BEING DISPUTED. - Since it is clearly established that an impediment to public honesty, within the degrees established by ecclesiastical law, arises between those who are related by blood or affinity to the person with whom marriage or betrothal is contracted (Cap. si gem. uxorem; Cap. Si quis dispensaverit, dist. 27, ff. 2, Cap. unie. De spons. in VÏ, Cap. iuvenis, Cap. Ad audientiam De sponsal. ct matrim.), this very matter suggested that two questions should be raised: first, whether a civil marriage had been contracted, or at least whether it had the force of betrothal; second, whether it was a clandestine marriage. Betrothal is said to be from *spendere*, because it was customary for the ancients to stipulate and pledge themselves to future wives (leg. 2 et 3.

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ff. De sponsalibus); this meaning has passed from civil law to canon law, in which betrothal is defined as the promise of future marriage (Can. 30, quaes. 5); therefore, just as marriage is a contract essentially in the present, or constitutes an actual marital union; so betrothal is a contract essentially for the future, or is an actual promise to perfect the marital union in the future, so that although the promise or betrothal is present and actual, its object is not present, but a future marital union. This object, with this future force, is what constitutes betrothal, and without these elements, betrothal would perish, for it is necessary that everything consists of those elements which constitute its specific nature. "As the sense of the future, and not of the present, constitutes betrothal." Thus, Nicholas, the Pope, defined it when giving a response to those who were seeking counsel from the Bulgarians: "It is the promise of future marriages." The same is taught by St. Thomas (Supp. Quaest. 43).

[*Latin ed. p. 159*]

MATRIMONII 159, article 1): If anyone were to add the word "mutual" to the definition, it would completely explain the nature of betrothals. Thus, Pope Benedict XIV, *Jus Eccl.*, 46. Given these premises, since civil marriage is contracted by present consent, not future consent, and this is understood and prescribed by civil law, which best distinguishes betrothals from marriage, it follows that civil marriage is not a contract of betrothal, and therefore does not create an impediment to public decency, which betrothals do. However, it was not considered to have the force of betrothals, although there are those who hold the opposite opinion, which Pope Benedict XIV calls "a new madness, arising either from ignorance or malice." The immortal Pontiff reports that in the Diocese of Bologna, certain abuses concerning marriage have occurred, among which is the following: "In order to more firmly confirm the mutual faith, men and women do not promise to each other about the future, but consent in the present; the man says these words: 'I take you as my wife'; and the woman also acts in this way: 'I take you as my husband, before God, the Blessed Virgin, and other Saints.' *Inst.* 46. And all of these things, in the absence of a priest, could sometimes be completed before witnesses and even in writing. There were those who maintained that, by virtue of this promise, a reluctant person could be forced to enter into marriage before a priest; but Pope Benedict XIV asserted, when he held the office of Secretary of the Sacred Congregation of the Council, that "such madness and false doctrine had never been proposed anywhere"; and he refuted it with the arguments previously mentioned concerning the intrinsic and immutable nature of betrothals. Indeed, he stated that the matter had already been resolved by the Sacred Congregation of the Council in Messina in 1573, *Decret.*, Lib. 1, p. 107, in which it was asked whether a marriage contract entered into in the present before a notary and witnesses, but without a priest, would be

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converted into betrothals for the future, and it was decided that it would not; and in another case (*Decret.*, Lib. 1, p. 132), the Sacred Congregation judged that it was neither a marriage, nor did it have the force of betrothals for the future; and although the marriage had subsequently taken place, it was judged to be the same.

[*Latin ed. p. 160*]

160. One marriage, celebrated in Gerace in the year 1589 (Lib. 6, Decr., p. 92). It does not impede a marriage contracted in the present by those who are not of age, which (Cap. unie. De Desp. imp. in 6.) is presumed to be valid as betrothal, for the text there speaks of those who are not of age, who, with expressed will, obligate themselves as much as they can, and the defect is not concerning the constitutive essentials of marriage, but in the person of the contracting parties. Thus, the first question is definitively answered. Regarding the second, it was admitted that a civil marriage, considered in its external form, could be clandestine; because the Council of Trent did not change the matter and form of marriage in any way, but only made clandestine marriages (without the proper parish priest and witnesses), which were previously only illicit, also invalid; and therefore, a clandestine marriage can today be defined as: a contract made by words in the present, by which, as far as is in their power, a man and a woman freely, but illicitly, give and receive each other the dominion of their own bodies for the purpose of marriage. This definition, considered in its external form, was said to be highly fitting for a civil marriage. However, true clandestinity depends on the intention of the contracting parties, and clandestine marriages are today illicit at least in the same way as they were before Trent, although today they are also invalid; and therefore, it can be said with greater certainty that the Church of God, for most just reasons, detests and prohibits them. Therefore, what happens is that both bishops and parish priests advise the faithful not to neglect the civil marriage, even after celebrating the marriage according to the rites of the Church? This is because the civil marriage, in itself, does not have the characteristic of clandestinity. Indeed, a marriage is strictly bilateral, consisting of a mutual giving and receiving of dominion over one's own body between a man and a woman, relating to the matrimonial union. Therefore, two essentials are required: 1. Deliberate consent of the will; 2. External manifestation of this consent; if you remove the first, the contract is not human; it is not a contract, it is not a marriage; if you remove the second, the mutual giving and receiving necessary for the constitution of marriage is not present.

[*Latin ed. p. 161*]

OF MARRIAGE 461. And since this kind of contract is made through words spoken in the present tense, which express here and now the giving and the accepting; the external expression cannot, by any means, be sepa-

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rated from the internal consent, nor this from that, so that they form, as it were, an indivisible whole, of which the external expression is the matter or subject, and the internal and deliberate consent is the form. Therefore, if a civil marriage has some relation to true clandestine marriage, it is so because of the external form, insofar as it is joined with the intention of the will. With these things established, let us examine the act which they call a civil marriage. The spouses appear before a civil official, and the external act of their contract has the matter and form of a true marriage; the form and matter, which express the reciprocal giving and accepting of the dominion of bodies, for the sake of marriage. But this is not enough; the intention of the will is required, which informs the external act. If the spouses, through this external civil act, do not at all understand the mutual giving and accepting of bodies, it is clear that only the external form remains, which cannot have the force of a contract. In this case, therefore, a civil marriage cannot be said to be attempted or clandestine, because the true consent of the contracting parties is lacking. But if the contracting parties, in addition to the external expression of consent, add the internal intention of actually constituting the matrimonial bond, then the matter and form would be present, and the marriage, as far as the spouses are concerned, would be perfect and complete, as it was before Trent and still is in places where the Council of Trent does not hold sway. In this case, it seems to me that a civil marriage cannot, in any way, be denied to be also a clandestine marriage in the sense of the Church. It could only be opposed by the opinion of those who hold that the priest is the minister of this sacrament; but such an opinion has long been refuted by the schools, and has almost no followers today. From these things, it follows that 1. A civil marriage cannot, in any way, be said to be clandestine, if only one of the contracting parties does not intend the actual giving and accepting, which constitute the matter and form of marriage, *conocía, tom. XII, fase. OXXXYI. 11*.

[*Latin ed. p. 162*]

162. MARRIAGES are established. 2. Ordinarily, unless the contrary is certainly known, it is to be held that, among Catholics, the betrothed give their consent, subordinating either actually or virtually the marriage to the religious marriage, and therefore, before the civil magistrate, they should perform nothing other than a ceremony; for Catholics are to be considered as acting in a Catholic manner. 3. In a civil marriage, there is no clandestine aspect, if one or even both of the contracting parties, although they believe the marriage to be civil, and consider the religious marriage to be nothing other than a ceremony, nevertheless subordinate the former to the latter. This conclusion is most evident if only one of the betrothed is mistaken in this regard. The matter appears more difficult if both betrothed are laboring under this error. However, the difficulty vanishes if it is considered that

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the same doctrines apply to marriage as those held by the Church and theologians concerning the other sacraments; therefore, in order that the contracting parties be bound by the indissoluble bond of marriage, it is sufficient that they intend to perform it before a priest and witnesses, as the Church does. 4. Therefore, a civil marriage will only present a reason for clandestine conduct when both betrothed enter into it actually, absolutely, and to the exclusion of the religious marriage, or not intending it as a sacrament, or not considering it to be a simple ceremony. With these premises established, since a civil marriage is neither a contract of betrothal, nor does it have the force of betrothal, as has been demonstrated above, it is stated that no impediment to public decency can arise from it, except insofar as it is a clandestine marriage. And it appears that this is the view of Benedict XIV, whose authority is to be held in high regard in the Sacred Congregations. Furthermore, among the cases of conscience discussed and resolved in the Diocese of Bologna, at the time when it was governed by Lambertini, later Benedict XIV, the following was found: John, lost in love for Francesca, said to his beloved before the image of Saint Anthony: "Before this sacred image, I take you as my wife;" and she replied: "And I take you as my husband." It was resolved that this marriage was null, because, although there was no nullity due to a lack of consent, it produced an impediment to public decency.

[*Latin ed. p. 163*]

OF MARRIAGES 163. Everyone easily sees that this kind of case differs in no way from the one previously recounted, where we saw that Benedict XIV made no distinction between a marriage contracted before the image of a saint and a marriage contracted before a notary and witnesses, in the absence of a priest. Therefore, if an impediment to public decency was thought to arise from a marriage contracted before the image of a saint, the same should have been thought regarding a marriage contracted before a notary and witnesses, which is also more in conformity with civil marriage in its external form; from which it seems that Benedict XIV also taught the same about this, without making any distinction. Nevertheless, it was noted above that the distinctions mentioned arise from the very nature of civil marriage, but that the immortal Pontiff did not bring them forward, because such a marriage was not yet in common use. Nor can the current civil marriage be equated in all respects with a marriage contracted before a notary or the image of a saint; for this was celebrated without any compelling law and with the fullest consent, and therefore was to be considered absolute and not at all subordinate to the laws of the Church; whereas, civil marriage is contracted under the imposition of laws, and by a certain moral coercion, in order to avoid greater harms. Hence the reason for the distinctions. From what has been discussed so far, it follows that a general answer could be given to the proposed question in the negative; for

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the reason of espousals is excluded from civil marriage, and while secrecy remains only with regard to the external form, since true and absolute secrecy, which can give rise to an impediment, depends on the intention of the contracting parties, there are very few, and rather speculative than practical, cases in which civil marriage can have the reason of true secrecy. And even if true secrecy exists, it is not entirely certain (since nothing has been resolved in this regard by the Apostolic See), but rather the opinion of theologians and canonists, which holds that no impediment to public decency arises from a clandestine marriage. Finally, it should be noted that the Church judges concerning external matters, and not concerning hidden things; and that it is almost impossible to have proof of secrecy, because the question almost always arises when one of the contracting parties has died.

[*Latin ed. p. 164*]

164. The ultimate aim of marriage. Therefore, I can safely respond that that action which is called civil marriage does not, in the least, impede public justice or honesty.

SYNOPSIS OF THE SECRETARY'S ARGUMENT:

To the votes of the consultants, as is customary in more serious matters, was added the vote of the Most Reverend Father Secretary, who, in the first place, took care to interpret the aforementioned responses of the Holy Penitentiary. He argued that, by its very nature, this tribunal is concerned with particular cases, and not with defining questions in a decretorial and general manner. He maintained that the response of March 13, 1820, also lends itself well to this interpretation, even though it appears, on the surface, to absolve the matter in an absolute sense. It is fitting to quote the response in its entirety: "Marriages contracted before a civil magistrate" are considered clandestine in the eyes of the Church; but "marriages that are valid, even if clandestine, do not impede public honesty," and this, according to the declaration of Pope Pius V and the Cardinals, as mentioned above. Therefore, civil marriages produce the same impediment in the same way.

Furthermore, he observed that everyone can see that both of the aforementioned propositions contain a statement that is more or less probable, but certainly debatable; therefore, according to the common rules of logic, the conclusion cannot exceed the limits of this probability or debatability, and consequently, the weaker argument always follows. He also maintained that this interpretation is supported by practice, as demonstrated by the Canonists and Theologians of the Holy Penitentiary, who freely debated this question, and considered it permissible to hold an opposing opinion. Finally, the Holy Penitentiary itself put the matter beyond all doubt when it responded to the Bishop who had proposed the question, stating that it was the duty of that tribunal to provide for

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the practical case, while a decretorial resolution, or one that establishes a precedent and a general principle, belongs to the Holy Congregation of the Council, and therefore, it urged the Bishop to address his inquiry to that Congregation.

[*Latin ed. p. 165*]

Regarding marriage, I 65, the aim was to return to the matter. Nor did the approval of the Supreme Pontiff, who confirms things as they are, stand in the way; and although his approval has considerable authority, it adds nothing substantial, so that the question always remains within the proposed limits. Having stated these things, when proceeding to the question of whether a civil marriage could be considered as a contract of betrothal, I observed that theologians and canonists were divided in their opinions. Those who attribute the force of betrothal to a civil marriage rely on reason and authority. On reason, because a Catholic who performs a civil act has, in regular fashion, the intention and purpose of contracting a religious marriage in the future. However, against this, I observed the form of betrothal, which consists of the promise of future marriage (Can. Nostrates, q. 5), is entirely lacking in a civil marriage. Furthermore, the intention and purpose of a future marriage, which would arise from a civil ceremony, as from other preliminary acts, cannot constitute a contract of betrothal (I. 46 ff. De oblig. et act. I. 99 % i. De verb. ob. Sánchez, De matrim., lib. 1, Disp. 5, § i. Pitonius, Disc. eccles., 52, n. 72. Schmalzgrueber, tom. 4, p. 1, tit. 1. De spon. Rota decis. 682, n. 4 et seq. c. Lancetta, decis. 1285, n. 3, cor. Emerix); for although no external form is prescribed, the signs used must adequately express the intended meaning; therefore, it cannot be presumed that words which have an entirely opposite meaning exhibit the form of betrothal; for, as Richerius says, words are instituted solely to express the intention of the mind (Disp. de inter prêt, contract. et ult. volunt., § 187). Furthermore, I said that those who assert this opinion derive their authority from the last chapter of De desp. imp. and from chapter one, § idem, in the same title, in 6; in the former, the gloss states: "He who, in contracting, uses words pertaining to the contracting of marriage, contracts betrothal"; in the latter, Boniface VIII declares that no marriage is contracted by minors through words of the present tense; he adds, however, that, by interpretation of the law, it is valid as a betrothal of the future, because the contract "availed as much as it could, not as it was performed."

[*Latin ed. p. 166*]

He observed that there were not a few, nor did they contend lightly, who defended contrary opinions regarding marriages, among whom were Emmanuel Sa in *Aphorism. confess. verb. Matrimonium* n. 42, and Berardius in *Comment. in ius eccles. univ.* v. 2, Bisser. 2, quaes. 2. Here, diminishing the opinion of the glossographer, he argued that it had been

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doubted whether a contract entered into between an impuber girl and a noble man, who had taken her as his wife, with mutual consent and with the understanding that the marriage would be somewhat postponed, constituted a marriage, or rather a contract of betrothal; and that, therefore, the Supreme Pontiff had rightly defined that betrothal had been contracted, since this was indicated by the girl's quality, not yet that of a woman capable of bearing children, and by the formula concerning the marriage being postponed somewhat. Boniface VIII, however, in the aforementioned chapter, n. 6, of *de desp. imp.*, seemed to have intended to define that a contract with an impuber would give rise to an impediment to public decency; that is to say, that the contract would not proceed to betrothal, but would create an impediment, similar to betrothal, to public decency. However, having omitted these discussions, the Reverend Secretary maintained the most common opinion, and one confirmed by the vote of the Sacred Congregation, which holds that marriages of impubers, celebrated with words in the present tense and according to the form of the Council of Trent, are governed by the provisions of common law, or pass into betrothal for the future. The Sacred Congregation, in Viterbo, in the month of July 1587, in *lib. 5. Beer. p. 2. a terg.*, and on March 27, 1696, in *lib. 8. Beer. p. 170*, likewise held for certain that marriages in the present tense do not, by reason of any defect in the form prescribed by the Council of Trent, have the force of betrothal, nor do they pass into betrothal. And this is proven by the resolutions of the Congregation mentioned above, from Besancon in March 1587, in *lib. 4, decr. p. 230*, and from another document, *Nullius* of June 8, 1595, in *lib. 8, decr. p. 130*, in which the Congregation clearly taught that "a marriage without the presence of the parties," contracted with words in the present tense, even if consummated, is null and void, and does not, in any way, resolve into betrothal for the future." This concerns betrothals. Then, he addressed the more difficult question of civil marriage, which is considered by some to be clandestine, and therefore, according to the most learned authors...

[*Latin ed. p. 167*]

OF MARRIAGE 467, it introduces an impediment up to the fourth degree of public notoriety. Two points must be noted here. First, many, and not merely obscure, writers deny that an impediment arises from a clandestine marriage (that is, where the law of Trent is in force). Second, there is great doubt as to the authenticity of the resolutions of the Holy Congregation of the Council, which are presented by proponents of the affirmative opinion: for they could not be found anywhere in the records of the same Holy Congregation. Indeed, Benedict XIV himself, who spent nights and days examining these very records, in the case entitled "Dubium matrimonii" on November 21, 1721, cited several doctors who alleged an impediment, but not even one resolution of the Holy Congregation. However, he

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did not consider this decisive: for even if a clandestine marriage did introduce an impediment, the question still remained: whether a civil marriage can be considered clandestine in the eyes of the Church; and whether, from this supposed clandestine marriage, contracted through a civil ceremony, the impediment about which we are arguing can arise. Furthermore, he pointed out that, for the faithful who, out of necessity dictated by the law, wish to ensure that their marriage lacks no civil effects, it is licit to have a civil marriage. This was defined by the Holy Congregation of the Supreme and Universal Inquisition on November 29, 1672, for when the question was proposed, whether Catholics, joined in marriage before a priest and witnesses, would sin by presenting themselves before a heretical minister, in order to be re-joined, the answer was: "As long as the minister assists at the marriages of Catholics as a political minister, the contracting parties do not sin. But if he assists as a minister devoted to the sacred rites, it is not permitted, and then the contracting parties would sin mortally, and they should be warned." He also added that Benedict XIV declared in the Constitution "Inter omnigenas" on February 2, 1744, in which § 10 states: "But to those who have validly contracted marriage, we do not permit, even for the sake of saving wives who have been carried off by Turks, to renew the same before a Cadi, through a Turkish rite, by means of a procurator."

[*Latin ed. p. 168*]

168 OF MARRIAGES: "Unless, however, the marriage rites of the Mohammedans are merely civil, and do not include any invocation of Mohammed or anything else that would be considered a form of superstition. Nor should there be any difficulty in this, since we are speaking of those who, after a marriage has been duly celebrated before the Church, approach a heretical or Turkish minister; for Pope Benedict XIV, in his work *De Synod. Dioeces. Lib. 6. c. 7. § 1 et 2*, citing the aforementioned resolution and constitution, declares such a marriage, whether celebrated civilly before or after the religious ceremony, to be licit. Furthermore, the same Pope, in the Constitution *Redditae sunt nobis* of September 17, 1746, speaking of marriages contracted in the regions of Belgii under the dominion of the United Provinces, stated that, although consulted, it was permissible "for those who have already been lawfully joined in marriage before the Church" to perform the secular civil ceremony before a heretical magistrate or minister. However, he added, "but since we have learned that this cannot be accomplished without danger and disturbance, strive at least, as far as possible, that, after they have performed the customs of the republic, they do not long delay in obeying the laws of the Church, and that they enter into the conjugal bond properly and holily, according to the norm prescribed by the Council of Trent." Finally, the Supreme Pontiff Pius VI, in his letter *Perlatae sunt* to the Bishop of Lucion, dated May 28, 1793, concerning the precedence of

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civil marriage over the ecclesiastical, wrote: "There is nothing, however, to prevent the faithful from making the declaration required by the national convention, in order to obtain the civil effects." From these things, it is clear that civil marriage, on the part of the Christians, is licit. Indeed, the Sacred Penitentiary, by order of the Supreme Pontiff Pius IX, declared it to be opportune and expedient; and there are theologians, among whom one should mention Joseph D'Annibale in *Summula Theologiae moralis* p. 3, trac. de matr. app. § 360, who teach that those who omit the civil ceremony are not at all guilty, because of the pernicious consequences that may result. Finally, in several provincial synods, in order to avoid greater evils, it was either permitted or..."

[*Latin ed. p. 169*]

Furthermore, it is also prescribed that Catholics should perform the civil marriage ceremony. And among these, the provincial council of Rothomagense in the year 1850 deserves special mention; in which, after various discussions among the consultants, an article concerning civil marriage, approved by the Supreme Pontiff, was inserted with the following wording: "In order that marriage may not lack its civil effects, let those things be observed which the law commands to be done before the magistrate; but let the pastors take care that this act is not performed prematurely." After these things, it would be superfluous to recount what has been written by the Bishops of Italiae in the same sense. Since it appears from what has been said that the civil ceremony, or civil marriage, is entirely licit, it is easily understood that it is not a clandestine marriage, because this is undoubtedly illicit and strictly prohibited (Council of Trent, Session 24, De Reformatione, Chapter 1) and subject to severe penalties, which in some synods extend even to excommunication. This conclusion also appears to be true, both with regard to those who maintain that civil marriage is always clandestine, and with regard to those who admit this clandestinity when those acting intend to perform a true marriage through the civil ceremony. Indeed, the Church has most carefully declared civil marriage to be illicit whenever either a heretical minister is present, as if devoted to the sacred rites, or something superstitious is added to the civil rite, so that the faithful may not appear to be communicating in the sacred rites with heretics, or be stained with the crime of superstition; and in the same way, civil marriage would have been prohibited and declared illicit whenever it could be converted into a clandestine act, or at least the faithful would have been warned not to perform the civil act with this pernicious intention. And the pastors should also have been warned, especially those who, after a civil marriage and a nefarious concubinage, join the faithful according to the laws of the Church; and even more so when clandestine marriage is subject to spiritual penalties. However, no trace of this warning or diligence

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is found in all these ecclesiastical documents.

[*Latin ed. p. 170*]

170. MARRIAGES. It is wrongly opposed to the instruction of the Holy Penitentiary, which judged it appropriate that "the faithful, after having entered into a legitimate marriage before the Church, should present themselves to fulfill the act imposed by law, but with this intention (as taught by Benedict XIV in the Bull *Uteris in forma Brevis* of September 17, 1746): that they are considered to be doing nothing other than a purely civil ceremony; this is wrongly opposed, because the cited instruction refers to the Benedictine constitution, and therefore the words quoted should be understood no other way than as the constitution itself presents them. Indeed, in this [constitution] it is written: "Let Catholics know... that when they present themselves before a civil magistrate, or a heretical minister, for the purpose of celebrating a marriage, they are performing a purely civil act." But it is one thing for Catholics to know that they are performing a purely civil act, so that, not content with this shameful act, they do not enter into concubinage; it is another thing that they should have the single intention of performing a purely civil act: the first refers to understanding, the second to the will of those acting. This is all the more evident because, after the marriage, which has already been duly contracted, as the Holy Penitentiary commands, the intention of those acting could rather be understood as a desire to reiterate the true marriage, rather than to constitute a clandestine marriage. From this, it was deduced that the dispositions and practices of the Church seem to exclude the quality of clandestine, independently of any intention of those acting. And perhaps this should be repeated, that just as a civil marriage should be considered as a strictly legal act, which not only incurs an ecclesiastical penalty for clandestine marriages and betrothals, but also produces a purely legal effect, namely an impediment that proceeds from one positive ecclesiastical law; but the nature of a legal act and its effects depend neither on natural law nor on the intention of those acting, but on positive law; it is indeed widely accepted in both civil and ecclesiastical law that an act which, by natural law, would have undoubted validity, is not sustained by human law, or...

[*Latin ed. p. 171*]

MARRIAGES 171 can be entirely nullified, and deprived of all juridical force. Both civil law and canon law offer countless examples; but let it suffice to cite the example of a marriage contracted according to the laws of nature, which would be perfectly valid according to natural law, but which, due to an impediment established by canon law, is rendered devoid of any validity, as Fagnanus states in chapter [omitted]. Therefore, since civil marriage, through the external disposition of a material act and the intention of the parties, presents a certain semblance of clandestine marriage,

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it does not follow that it is a marriage in the sense of the Church, and that it introduces an impediment to public decency, for the juridical effects of that act cannot extend beyond the boundaries of civil law; and it is the Church that establishes impediments, which could deny or remove all ecclesiastical effects from the civil ceremony, either by coercing it among mere civil acts, or by suppressing the impediment itself. Indeed, what is civil marriage before the Church? The Sacred Penitentiary, by order of the Most Holy Pope Pius IX, declared that it should be considered of no value, neither in terms of the sacrament, nor in terms of the contract; and from the declarations of Benedict XIV, Pius VI, and the same Pius IX, which prompted the aforementioned instruction of the Sacred Penitentiary, civil marriage is nothing other than a mere civil ceremony and act; and therefore, it cannot be called either a betrothal or a clandestine marriage, because both are subject to ecclesiastical jurisdiction, according to the propositions condemned in the Bull *Auctorem fidei* under number 58, and in the Syllabus under number 74. Hence, it is clear that from this mere civil act, the impediment of which we are questioning cannot arise, namely, the ecclesiastical effect, because the effect would not be proportionate to the cause. Furthermore, it does not involve the matter that some claim, namely, that the aforementioned declarations should not be understood in an absolute sense, and to the exclusion of any marriage, even an invalid one, but only to the exclusion of a marriage valid in the sense of the Church; for if from the intention of the parties, the matter and form of a clandestine marriage concur in the civil act, then...

[*Latin ed. p. 172*]

172. The reasons for a marriage to be brought before the Church should not be such that they seem to deny that a marriage has actually taken place. This course of action is entirely inappropriate, for in a clandestine marriage, initiated without compulsion, the words and gestures clearly signify the internal consent of the parties, solely with the intention of effecting the marriage; but in a civil act, even if the faithful are unwilling to give their consent, they are compelled before the magistrate; and the expressed words or gestures signify nothing among Catholics other than obedience to civil law, so that a true marriage, whether already contracted or about to be contracted, may not be deprived of its civil effects. Furthermore, he added that the unjust end of the law, so strongly condemned by the Most Holy Pope Pius IX in his memorable letter of September 9, 1852, to the King of Sardinia, and by the Bishops of Umbria in a declaration of the year 1861, drawn up by His Most Holy Lordship Leo XII, then Bishop of Perugia, was the separation of the sacrament from the natural contract; and that Catholics who knowingly went before the magistrate, for the purpose of contracting a marriage, independently of the laws of the Church, were impiously adhering to this end. In this case, everyone can easily see how

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far a civil marriage is from a clandestine marriage. For in the latter, if there were no impediment of the law of Trent, a Christian marriage would be perfected; but in the former, even if the obstacle of Trent were removed, the intention of those acting would resist the constitution of the sacrament, since they positively intend not to do what the Church intends to do. Finally, he added that the declarations of the Church were conceived in such absolute terms that they exclude any form of marriage, even an invalid one. Benedict XIV, in the often-cited Constitution *Redditae sunt nobis*, warned Catholics that, in performing a civil act, they should "contract no marriage from themselves." Pius VI, writing to the Bishop of Luçon, advised that Catholics should keep in mind "that they contract no marriage from themselves, but merely perform a civil act." Surely, does anyone not see the difference between these expressions: "no marriage is contracted" and "a marriage is contracted by no one"? The first indicates that the contracting parties are doing absolutely nothing; the second, that they do indeed enter into a marriage, which...

[*Latin ed. p. 173*]

Of MARRIAGES 173, however, there is no defect; the first denies the existence of marriage, the second indicates its quality. And these are easily deduced, both from the meaning of the word "nidus" in Forcellini, and from the common usage of theologians. The objection drawn from the practice of the Church, which often seeks to heal civil marriages at the root, is of no consequence; for in practice, the general rule must be distinguished from particular cases. In general, healing at the root requires that the marriage have the external appearance of a just marriage, yet be null due to a purely ecclesiastical impediment, and that the union not be manifestly fornication. Barbosa, vot. decis. 27, lib. 2; Sánchez, De matr., lib. 5, disp. 7, n. 4 et seq.; Benedictus XIV, De Synod., dioeces., lib. 13, cap. 21, n. 7, and others. A civil marriage manifestly lacks the external form of a just marriage and is a union that is manifestly fornication, when it has been defined by the Church as a cause of nullity of marriage. In these circumstances, the Sacred Congregation of the Council in Prague, in "Matrimonii," on January 15, 1723, was asked, "Whether it is the opinion of the Most Holy Congregation to grant a dispensation for a marriage at the root (clandestine) in this case?" The response was: Negative. However, it can happen in particular cases that the contracting parties place the natural element, namely, mutual, deliberate consent; but this element has no value due to the obstacle of the Council of Trent, and because, under the civil form, it is not recognized by the Church at all. But if, for grave reasons, there is certainty of the perseverance of consent, the Church may grant a dispensation from the law of Trent; then the natural element regains its force, and when the effects of this dispensation are traced back to the beginning, healing at the root is achieved. However, nothing can be inferred from

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this in favor of the marital form in a civil act: for unless the recognition and dispensation of the Church were added, the consent would remain a mere civil act, incapable of producing an ecclesiastical effect. But even so, continued the Secretarius of the Sacred Congregation, if a civil marriage could be considered clandestine in the eyes of the Church, it would still be doubtful whether it would present an impediment to public marriage.

[*Latin ed. p. 174*]

174. Of the honesty of marriages. For a clandestine marriage cannot certainly be constituted by the external civil act alone, which has neither a direct nor a necessary connection with the internal consent to contract marriage presently, indeed, in most cases, such consent is entirely lacking; and therefore, this form alone plainly stands in contradiction to a true marriage, whether already celebrated or soon to be celebrated; especially because, otherwise, it would have to be held that the civil act is always a clandestine marriage, even though the intention and will of the contracting parties were lacking. Therefore, a clandestine marriage would only be verified when those acting intended to celebrate a true marriage; and thus, in particular cases, clandestinity would depend solely on the intention and will of those acting, and would be determined by the same will and intention. Hence, only to God, who knows and scrutinizes hearts, would it be known when clandestinity was present. Therefore, if a clandestine marriage were ever to occur, it would be hidden, and could only be proven by the assertion of those acting, to which, however, no credence whatsoever should be given, according to the decision of the Rota, 28, n. 13, part 4, vol. 2, revised edition. Indeed, it would be so hidden that all presumptions of law would exclude clandestinity. For every act must be judged as it appears, not as it was intended to be done, according to Piton, Disputations Ecclesiastical, 11, n. 19, and everyone is presumed to act in conformity with the customs of the place and country where they act, according to Curt, Institutes of Canon Law, 171, n. 4 and following, and the decision of the Rota, 311, n. 3, p. 4, vol. 1, revised edition. Finally, since a clandestine marriage is illicit and condemned by the Church, every interpretation that excludes such illicitness must be admitted; for the act must be presumed to have been performed in such a way that not only is it valid, but also licit, according to I, quoted in ff., on the subject of the guilty, question 1; and according to L, quoted in ff., for the sake of society, Canon 237, n. 3, book 1; and according to Riminald, Canon 42, n. 12. But can an impediment to public decency arise from a clandestine marriage that is hidden? The nature and reason of this impediment consist in external decency (arising more from opinion than from truth), for which reason it does not behoove...

[*Latin ed. p. 175*]

175. It is held that one cannot marry a relative of that person to whom

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one's spouse was reputedly married. This is most clearly evident from chapter 3 of *De sponsis et matris*, where the impediment to public propriety is defined as arising from a marriage between a young person and a girl under the age of seven, "because she is said to have been the spouse of that person." Therefore, all canonists teach that the reason for this impediment lies in external appearance, or, as Pitonius states in *Discip. eccl.* 52, n. 96, "it consists in external and apparent decency, according to which it does not seem fitting among the faithful that one should be called the spouse of that person who was the betrothed of a relative." Consequently, if the substance of such an impediment is completely lacking in a clandestine and secret marriage, the impediment itself must necessarily be lacking. And all the doctors, as Sánchez, Pitonius, Guttier, and others, were said to have agreed with this opinion, stating that the impediment of public propriety does not arise from secret betrothals; indeed, Guttier and Pitonius assert that this opinion has been confirmed by the Sacred Congregation of the Council. No other opinion was held by the doctors regarding clandestine and secret marriages, among whom Paludanus is mentioned in *quarti, dist.* 27, q. 2, art. 5, v. tertia conclusio; Navarrus in *Summ.* cap. 23, 58; and Fagnanus in *cap. Ad audientiam De spons.* n. 28, who wrote: "For the third and final point, consider Paludanus speaking of a 'clandestine marriage,' as it implies an act without witnesses, because, since it is secret, there is no reason to consider there the impediment of propriety, which is introduced because of external acts and the scandal of the people." Finally, the author cites Pitonius in *cit. discep.* 52, n. 99, who follows Paludanus and Fagnanus, repeating almost the same words: "When a marriage or betrothal is secret, there is no reason to consider there the impediment of public propriety, which is introduced because of external acts and the scandal of the people, otherwise it would arise even from a non-existent act, apparent, and therefore in the forum of conscience, it does not impede anyone from marrying relatives who have been betrothed here and there."

[*Latin ed. p. 176*]

476. MARRIAGES. This is the sum of those things, omitting some of lesser importance, which have been discussed; and after these have been considered and carefully examined, the following question was proposed: Whether the act which is commonly called civil marriage creates an impediment to public justice and honesty.

RESOLUTION. The Holy Congregation of the Council, on March 13, 1879, responded: Negatively: and it is to be hoped that His Holiness will deign to declare and establish this. After a report on the foregoing matters was made to His Most Holy Self by the Reverend Father, Secretary of the Holy Congregation of the Council, in an audience on the 17th day of the same month, His Holiness deigned to approve and confirm the resolution, and ordered a decree to be issued.

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FROM THESE, GATHER.

I. That this act, which is commonly called civil marriage, is always detested by the Church, insofar as it intends a legitimate and marital union; but it is tolerated as a mere civil ceremony, by which Catholics, whether already legitimately joined in religious marriage, or about to be joined, seek to promote their own and their children's welfare;

II. That this ceremony, although tolerated by the Church, as it lies and is commonly understood, is entirely unsuitable for producing any ecclesiastical effect; both because of the lack of jurisdiction in the one who enacts the law, and because of the lack of intention in the contracting parties, whom, since they are Catholics, it is presumed to be their intention to act as Catholics;

III. Therefore, this ceremony, when considered in itself, unless particular circumstances suggest otherwise, cannot be considered either as a betrothal or as a clandestine marriage in the sense of the Church; and therefore, the opinion of those who contend that it is either a betrothal or a clandestine marriage, without making any distinction, is to be entirely rejected.

IV. Finally, the various opinions of theologians and canonists regarding clandestine marriage, insofar as it creates or does not create an impediment to public justice and honesty, remain in the same state as they were before this resolution of the Holy Congregation.

[*Latin ed. p. 177*]

477. DISPENSATIONIS MATRIMONII. Die 25 Ianuarii et 26 Aprilis 1879. COMPENDIUM FACTI. Franciscus P., qui adhuc non excesserat annum vigesimum sextum, et qui carens bonis fortunae, victum sibi manu et arte comparabat; cum, fortasse, suum miserabilem statum considerare, arbitratus est meliorem conditionem assequi. Et re quidem vera, certior factus adesse puellam, quae iam trigesimum quartum annum expleverat, eamdem appetiit, quia eius familia, constans Patre et fratre presbytero, potiebatur variis agellis, praeter alia bona fortunae. Spe huius haereditatis consequendae, nil perpendit aetatem mulieris, nec eius deformitatem, aut animi debilitatem, sed totus fuit in eo, ut puellae de matrimonio ineundo loqueretur. Sed Violantina viro respondit: sese parum ad statum coniugalem inclinatam sentire; attamen totum hoc negotium fratri suo Presbytero remittere. Quamvis pater puellae dissentireti, quia filiam noverat muniis matrimonialibus, ob animi levitatem, parum aptam, tamen cooperante fratre, matrimonium secreto initum est die 4 Augusti 1866. (1) Celebratis nuptiis in rurali Ecclesia Religiosorum, vir tantum potuit per nonnullas horas in domo sponsae permanere, huius absentia et ignorantia genitoris. Eadem die, horis vespertinis, in patriam regressus est, ea spe et consilio ductus, ut ibidem permanseret, donec sponsae frater genitorem animum flecteret et ad civilem actum adimplendum viam

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sterneret. Transacta hebdomada, domum sponsae repetiit Franciscus, sed mulier facti coniugii poenitens, cohabitare renuit, cum viro inope; et fratre ipso, ob insuperabilem patris adversionem, obsistente, miser sponsus ut ignominiam infausti connubii effugeret. (1) Frater, qui successionem in sua familia optabat, sategit ut soror nubilem esse validum agricolam; tali sorore difficile esse alium pro loco viro, quamvis disparis conditionis hominem; eo consilio ut eodem tempore solleret agellos colere; quod Presbytero intererat. Noverat enim, ut in tom. XII, fase. III, N. XXXVI, qui et invenire insimul agellos familiae il.12.

[*Latin ed. p. 178*]

178 The matter of the marriage dispensation was brought before America. Four years later, having returned to his homeland, he moved every stone in order to be joined to his bride. However, disheartened in hope and spirit, in May of 1872 he humbly petitioned the Sacred Congregation [for the Causes of Saints] to grant him a dispensation from a marriage that was valid but not consummated. This matter, however, remained pending for various reasons until the year 1878, when the new Bishop still insisted on the proposal of the cause; which, due to the petitioner's poverty, was presented economically, along with the opinion of a canonist and a theologian, and with the observations of the defender of the marriage by office; a summary of which we present here. OPINION OF THE CANONIST. He said that, although he believed that the matter should be addressed not through the path of justice, but through the path of grace, nevertheless, in the present controversy, two extremes must be considered: namely, that the marriage still remains only valid, and that there exists a just and legitimate reason by which the Supreme Pontiff may be moved to grant the requested dispensation. This, he would do with the greatest diligence, according to the decree *Rotam*, 392, n. 27, recent: "When it is a question of the dissolution of a marriage, which is a great Sacrament, all diligence and caution must be employed, so that, as far as human frailty allows, all fraud and error may be excluded." Furthermore, that the marriage in question remains only valid, is demonstrated by trustworthy witnesses who testify: that the spouses, having entered into marriage, never met together in the same place; but always remained in the presence of other people, and separated from each other in their presence, and never cohabited under the same roof. And that if they entered into a bedroom, it was with the doors open, and they only remained there for a moment. To the testimony of the witnesses was added the sworn assertion of both spouses. But there is no doubt that, with these concurring proofs, the consummation of the marriage is excluded, according to *Cap. Laudabilem §*. Moreover, it is to be held more strongly in the present case, as Coscius de separatis, *tor. Coniug.*, book 3, chapter 2, n. 133, says: "Sometimes, the negative proof of

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consummation remains."

[*Latin ed. p. 179*]

DISPENSATIONIS MATRIMONII 179: "If it is established that, after the marriage was barely celebrated, the parties immediately returned to their own homes, and the husband to his own dwelling, this can easily be remedied; because, from the beginning, there was no further communication or sight of each other between them; for the woman immediately repented of this contracted marriage. And Coscius, in the aforementioned passage, number 184, says: 'especially if, through some deceit and collusion...' they jointly deny consummation and seek the dissolution of the marriage.' And the Rota in Rouen, concerning the Nullity of Marriage, July 15, 1676, §, states: 'And although, before the Vice-Comte senior, she confesses in her sworn declaration, to which, although it is not regularly to be given consideration for the dissolution of the marriage according to the text in the chapter concerning it... nevertheless, if it appears from other well-founded and credible proofs, this kind of confession is not to be rejected.' The Canonist noted that seven witnesses, formally summoned for examination, with one voice, under oath, testified to the probity, honesty, and veracity of both spouses, and testified that full credence should be given to their testimony regarding the lack of consummation of the marriage. Therefore, it can be concluded that a marriage of this kind was not consummated due to the lack of time. The Canonist did not conceal the fact that one piece of evidence was lacking in this case: namely, the examination of the woman's virginity; which is what the sacred Canons, the Constitution of Pope Benedict XIV, and the Instruction of the Holy Council of the Congregation require. However, this difficulty is overcome, because this kind of proof is only required as supplementary, not as essential; and therefore, when other evidence is abundant, it is not at all necessary to use the deceptive method of Zacchaeus, as stated in the Quaestiones Mediae Legis, I, 4, volume 2, question 1, number 14. This proof is required by the Holy Canons when it is a matter of proving impotence for intercourse, and the spouses have slept together; and in contradiction of the woman's oath denying and the man's oath affirming consummation. But when there was no cohabitation, as in this case, and both spouses jointly deny consummation, together with..."

[*Latin ed. p. 180*]

180 Regarding the dispensation of marriage, the seventh canon, supported by other authorities, arguments, and supplementary proofs, teaches that such an inspection [of the woman] is not necessary after the Gloss, in the marginal note of Chapter 4, words "Puellae de probat." Alexander de Nevo, in Chapter 47 of his "Laudable," in the fifth case concerning frigidity and maleficence, and Angel, in "De Confessione," Volume 2, Chapter 49, numbers 14 and 15, Guttierez, in "De Matrimonio," Chapter 420, number

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9, Speveli, in "Decisiones," 444, number 44 and following, and Cosci, in the aforementioned work, Chapter 45, number 64, all state: "Unless their assertion is also supported by other proofs, namely, that after a valid marriage, they have never been together." However, if "such an inspection is lacking, it should be attributed to the woman, who stubbornly refused the prescribed physical examination. But the law does not permit that a man be denied grace when he requests it, and that an innocent man be deprived of his right because of the woman's obstinacy. Only the prior confession of both spouses, supported by the seventh canon, has repeatedly stated that dispensations have been granted by the Supreme Pontiffs in more difficult circumstances: such as in Burdigala, in the dispensation of marriage, on February 22, 14822; in Paris, in the dispensation of marriage, on March 28, 14857; and in Gandava, in the dispensation of marriage, on July 28, 14877. The canonist, when considering the causes for a dispensation, asserts that there are several present in this matter. Among these, the first cause for granting a dispensation is a great and notable disparity between the spouses, whether in age or in condition, which is sufficient to obtain the dispensation; because it hinders that friendship and harmony of souls which brings a certain happiness among spouses, as Sánchez states in "De Matrimonio," Book 2, discussion 46, number 2. Furthermore, the mutual consent of the spouses to obtain a dispensation from a marriage already valid is added; this consent is one of the causes for granting a dispensation, as Sánchez states in the aforementioned work, Book 2, discussion 46, number 5. A third cause is aversion of the soul, which has become so intense between the spouses and their relatives that it has led to hatred. The dissensions and enmities, which seem to abound in this case,

[*Latin ed. p. 181*]

DISPENSATIONIS MATRIMONII 181: A just cause for dispensation is provided, even among ordinary people. For this reason, Alexander VII dispensed with the irregularity of Bourg, as stated in part 6 of *De Sponsalibus*. Innocent X granted a dispensation to two spouses who had wronged the people. Ursaya, *Disceptationes Ecclesiasticae*, volume 2, part 4, disputation 3, number 28, and volume 3, part 2, disputation 21, numbers 64 and 85, states that a similar dispensation has often been granted, even among people of ordinary condition. Especially, as Conscius states in the aforementioned location, chapter 46, number 256: "If there is no hope of future reconciliation and simultaneous cohabitation."

VOTUM THEOLOGI: This theologian judged that, from the acts of the process, it was abundantly proven that the marriage in question remained valid. For the spouses, under oath, assert that they never consummated the marriage; and the witnesses called almost unanimously testify that the spouses never cohabited. Regarding this, Conscius, *De Separationibus*, volume 1, 4, chapter 46, numbers 43 to 48, states: "They can provide this

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proof, namely that the marriage has not been consummated, by having witnesses testify that the spouses, 'after contracting marriage, never came together in the same place, or at least that before others, they always remained separate, and that, before the eyes of those present, they separated, and never cohabited under the same roof...' " This is also taught by Sánchez, *De Matrimonio*, book 2, dispute 23, number 4, where he states: "If the bride was not a virgin, and the groom did not take her to his house in Tarifa, the faith of their oath is used; since, in the absence of proof, and because there was no Tarifa, the oath becomes a strong indication."

The lack of a physical examination of Violantina cannot invalidate other proofs of the lack of consummation of the marriage; for from Conscius and Sánchez, it is deduced that if the spouses never cohabited, other proofs are sufficient. And as Ursaya states in volume 3, part 2, disputation 24, number 434 and following, this type of examination has often been considered too unreliable; and it is rarely, unless requested by the woman herself, considered suitable for revealing the integrity of her virginity.

(1) (1) In Volume X, pages 376 and 463, you will find two marital cases in which a physical examination was used; while more necessary,

[*Latin ed. p. 182*]

DISPENSATION OF MARRIAGE. Here, having reached this point, the Theologian stated: if from what has been said it is clear that the marriage in question still remains valid, then it is highly fitting that the Holy Father grant a dispensation concerning the defects in the process of the Curia. And he said that various reasons are present to obtain a dispensation concerning a marriage that is valid but not consummated. And first, alienation of affections is considered by Theologians to be a sufficient cause in itself for a dispensation, as Caietanus states in *Opera*, Volume 1, Tractate 28. In this case, this alienation on the part of the woman is such that there is no hope of reconciliation. A second cause for granting a dispensation from marriage is recognized by Sánchez in *De Matrimonio*, Book 2, Dispensation 15, namely, the fear of a grave scandal. In this case, not only is there a fear of scandal, but the scandal itself is already present, since Francis has married another woman through a contract, which civil law calls marriage. Furthermore, there are animosities between the relatives of the bride and groom, which, as the Bishop states, cannot be removed except through a dispensation from the valid marriage.

OBSERVATIONS OF THE DEFENDER OF THE MARRIAGE. Since the inspection of the woman's body is lacking, and both spouses could have presented depositions concerning the lack of consummation of the marriage, because they both desired dissolution with equal eagerness, this question must be clarified through witnesses. This is the jurisprudence by which we live; this is the long-standing and constant practice in similar cases, as testified by Conscio in *De Separationibus*, Volume 4, Chapter

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16, paragraph 63: "If one spouse, with the consent of the other, requests an Apostolic dispensation concerning a valid marriage, and both confess that it has not been consummated, this can be proven through a physical inspection, to the extent that the woman offers her body to be inspected; and upon inspection, no sign of a recent union should appear. But if the woman does not spontaneously submit to this inspection, and she is not to be visited, lest scandal should follow; but neither should full faith be immediately given to the assertion of both concerning the lack of consummation (because doubt may arise, as in this case). Remember to consider the disciplinary aspect of this matter; and also, that the authority and power of the Holy Father are involved. Therefore, the same things can be dispensed by the Supreme Pontiff, for the time being, in particular cases."

[*Latin ed. p. 183*]

DISPENSATIONIS MATRIMONII 183 » that they conspired against the marriage, unless their assertion is also supported by other evidence, namely, that they never were together after the marriage. » But, the defender of the marriage continued, the testimonies of trustworthy witnesses must demonstrate that the spouses never were together, that is, that they never remained alone with each other. However, in this very case, the contrary is proven by a suitable witness; for the Religious Brother Joseph, who was present at the marriage ceremony, and who was invited to share in the wedding festivities, found the bridegroom alone with the bride in the house. It was stated that after the marriage was celebrated outside the city, the bride and her brother, together and with no other companion, went to their own dwelling; the bridegroom, however, returned to the same house alone and by a different route. The Religious Brother, perhaps remaining in the monastery, was only able to visit the house in the evening, invited by the bride's brother, and there he found the spouses having been together for a considerable time. It is impossible to deny that the Religious Brother was with the spouses, neither by the testimony of the woman, nor by the testimony of her brother; these testimonies are obscure, uncertain, and contradictory (1). (1) It seems that the defender of the marriage has given too much weight to the testimony of this Religious man, who, when questioned whether he had properly examined and investigated the matter, and whether he had been in the company of the spouses; but only in the evening, having been invited by the bride's brother, answered: "I do not know; I remember, however, that after the celebration of the marriage, I was invited by the aforementioned brother to come to the house in Pozzuolo, and therefore, from the mere possibility of the spouses having been together at that time, the dispensation should be denied." But the Fathers observed that, moreover, the Religious Brother, Virum, having been present at the wedding festivities, and in the presence of all, having

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tasted wine and other food, and in the midst of these circumstances, having heard the aforementioned brother, N., say that the bride had abandoned her husband, as other witnesses have testified, he deposited all his hopes. The bridegroom had not returned to his homeland, nor even temporarily.

[*Latin ed. p. 184*]

1 84 OF THE DISPENSATION OF MARRIAGE. If the spouses remained alone during the entire period of time that elapsed from the hour when the marriage was celebrated until evening, I ask, says Vindex, can it be demonstrated in any way that the marriage was not consummated? No one can provide any information about this time; for the brother himself, a professor at the gymnasium, was absent, and the father scarcely ever remains at home. From these facts, the presumption of the consummation of the marriage arises; for the solitude of a man with a woman leads to the presumption of copulation; and from the convenience of the place and time, a very strong presumption of carnal intercourse arises. Thus, they state in Panormitanus, in chapter Uteris, on presumptions, no. 4. And I believe that Imolensis, in the cited work, chapter no. 4, and Menochius, in his book on presumptions, book 6, proposition 89, state: "It is often doubted whether virginity is presumed..." It is declared first, that this presumption does not hold, when conjectures and signs of corruption exist... The second is the conjecture when the girl herself was with a lover or husband in a secret and hidden place... More thoroughly and clearly, the Roman Rota, in decree S. n. 13 on betrothals, before Falconieri, and in decision 95, no. 8, part 2, diversorium, state that a strong presumption arises from the cohabitation of the spouses that the marriage has been consummated, as is also stated in the Holy See's Council in the case of Angren, concerning marriage, on February 6, 1847. With these presumptions present, the proof of the lack of consummation could be achieved in no other way than through a physical examination of the woman. And this examination must be employed, when both spouses conspire for a dispensation; Conscius, in his book on separations, book 1, chapter 16, advises: "If one spouse, with the consent of the other, requests a dispensation concerning a marriage that has been ratified, and both declare that it has not been consummated, this can be proven through an examination by a midwife, to the extent that the woman offers her body to be examined, and upon examination, no sign of a recent copulation appears." But nothing could be done regarding this examination, since the woman vehemently opposed it. And therefore, everyone can see how much value the testimonies of witnesses have who affirm that the spouses never had carnal intercourse with each other, when it has already been demonstrated that the spouses were together for the entire day.

[*Latin ed. p. 185*]

CONCERNING THE DISPENSATION OF MARRIAGE 185. It has been

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stated that he had been conversant with the matter. However, given the constant probability of consummation, the question of the dispensation of marriage is resolved in itself, namely, that the dispensation must be entirely denied. The Sacred Congregation of the Council of China, in its decree on Matrimony of December 16, 1792, § 5, cited by Zamboni, Volume V, on Matrimony, § 19: "For in every doubt concerning marriage, it is considered consummated based solely on the possibility of consummation..." Because of this possibility, the dispensation is denied, concerning a marriage that is valid but not consummated, and in the decree of the Matrimony of Spoleto, of December 20, 1873, §. This absolute statement: "The mere possibility of consummation is sufficient to reject the dispensation." Finally, the Advocate for Marriage added: It cannot be argued that the causes for dispensation are, as if, the most valid, because the necessary foundation for the dispensation, namely, the certainty of non-consummation, is lacking. With these matters noted, the following proposition was to be resolved: WHETHER it is necessary to consult with the Most Holy [Father] concerning the dispensation of a marriage that is valid but not consummated in this case. RESOLUTION. The Sacred Congregation, after mature deliberation, on January 25, 1879, decided to respond: Affirmative. At the request of the Sacred Advocate for the bond of marriage, the question was re-proposed, with new observations, and under the customary formula of questioning: Whether one should adhere to or depart from the previous decisions in this case. On April 26, 1879, the response was issued: Adhere to the previous decisions. FROM WHICH WE GATHER: 1. When there is no hope of future reconciliation and simultaneous cohabitation, the Pontiffs are accustomed to grant the desired grace of dispensation concerning a marriage that is valid but not consummated. (1) (1) It cannot be disputed whether the Pontiff is able to dispense with a valid marriage. For if the marriage were not valid, it could not be dissolved even by entering into religion. But the question is asked: Does a dispensation of a valid marriage hold without a just cause? Sánchez de Matrim., I, 2, conc. 2, responds that although it is probable that it is valid, it is more true that "a dispensation made without a just cause does not hold."

[*Latin ed. p. 186*]

486. II. The Roman Pontiffs strive, as far as they are able, to address the dangers of scandals and all evils affecting the Christian faithful, even by relaxing the strictness of the law, because they know that avoiding scandals greatly benefits the common good. III. And therefore, when it has been proven that the absence of carnal union provides a just reason for dissolving a marriage, due to the alienation of the spouses' affections; so that they do not fall into adultery, or are forced to remain in a state of unhappiness; but rather, that the good of peace may be restored between them, such a dissolution of the bond is permissible, removing the fuel of perpetual

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discord. IV. Enmities between spouses and their relatives, without hope of reconciliation, and the scandal of fornication (which is not to be feared in the future, but which has already occurred, as Francis has allegedly entered into a civil marriage with another woman), may provide a just reason for granting the grace of dispensation. V. However, as a primary and necessary foundation for dissolving marriages, there must be moral certainty of the lack of consummation; because, although dispensation is a grace, it cannot be granted unless it is clearly established that the marriage was not consummated. VI. Once moral certainty of the lack of consummation has been obtained through other means, the Roman Pontiff can sometimes dispense with the examination of the woman's body, exercising his supreme authority, by which disciplinary laws can be modified, changed, or dispensed with. VII. In the case where the lack of consummation has been demonstrated (without the examination of the woman's body) by trustworthy witnesses, who have testified that the spouses, after the marriage ceremony, have never been together alone in the same place, except in the presence of other people, and that they have always separated in the sight of those same people, and that they have never lived together under the same roof; and to these proofs has been added the assertion of both spouses, confirmed by oath: "because they deny the indissolubility of marriage," and thus they say that "the Pontifical dispensation, in a simple vow, without a just cause granted, is entirely invalid, because the bond is of natural and divine law." Thus, according to the common opinion of theologians and of both laws.

[*Latin ed. p. 187*]

187. NOMINATION. August 24, 1878. Through summary petitions, a COMPENDIUM OF FACTS. From the most ancient times, a sanctuary dedicated to the Blessed Virgin Mary has existed in the Diocese of B., to which a multitude of pilgrims are accustomed to gather each year, for the sake of piety and devotion. The Chapter of Canons managed the spiritual and temporal affairs of this sanctuary. With the passage of time, it came to pass that some laymen were also introduced into this administration, of which the President was the Bishop of the time. When, in the year 1867, the law of suppression was published, and the grasping treasury was prepared to seize the assets of the sanctuary, the Municipality, with the consent of the entire administration, obtained from the royal government that the sanctuary and hospice might continue to exist as a work of beneficence. From the year 1868 to the year 1876, two Canons and four municipal officials formed the administration. However, in that year, the lay administrators, exercising political authority, established a new statute in which they decreed that the administration should henceforth be formed by five municipalities; among whom a President and Vice-President should be elected, and only two Canons should be appointed by the Chapter. To the Rector was left the spiritual administration of the Church, and in no way the administration of

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the hospice, of which previously the entire administration had taken care. Under these conditions, the Capitulars, appealing to the Holy See, petitioned for the following: 1. Whether it is permissible for the Chapter to elect two Canons for the new administration of the sanctuary, according to the royal decree? 2. Whether the Chapter may proceed to the aforementioned election? 3. Whether the Chapter can establish a method for the nomination of one Canon to be elected or rather appointed as spiritual Rector?

[*Latin ed. p. 188*]

188. Is the nomination of a rector a matter of current concern? 4. Is it fitting, so that the faithful may not suffer scandal, that an answer to these questions be made known to the people?

Agnostic proposition. It would seem that the Chapter ought to abstain from nominating two canons, who should form the council of administration along with others elected by the Municipality. Because it is not fitting for the canons to participate in this task, concerning the ecclesiastical nature of the administration, from which the Bishop, who is the head of the Chapter, has been excluded. Because the dignity of the Chapter, which forms a senate for the Bishop, does not permit two individuals elected by it to be subjected to a lay president. Because their work would be useless due to the small number. Because the rector, remaining subject to a lay person with an ecclesiastical disgrace, would continue to be so. Because the municipal council members, who desire secularization of the sanctuary in every way, would more easily achieve their goal, under the guise of the Chapter's presence, thereby stirring up the people to restore things to their former state. Because, since the sanctuary ought to depend on the Bishop, both in terms of its administration and in terms of the discipline of the priests who fulfill the duties of the Mass, it could happen that the Bishop would have to oppose certain decisions of the administrators. If the canons were also included in the number of administrators, their presence would be an obstacle for the Bishop, rather than an aid.

On the other hand, it would seem that, even if the presence of the canons in the administration cannot prevent all evil, without them, the municipal council members could, without anyone opposing them, subvert everything. Furthermore, they could even spread the rumor among the people that the canons themselves had voluntarily sent a message to the administration of the sanctuary, thus inciting them against the clergy, and like scribes and Pharisees, they would not cease to persecute them as if they were corrupting the people.

Furthermore, it must be noted that it is possible, through effort and counsel, to elect good men for the municipal administration, who will gladly listen to the voice of the Chapter, and who will proceed in all things properly, with the consent of the Pastor. Nor should it be overlooked that if they

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themselves are to form the administration...

[*Latin ed. p. 189*]

189 NOMINATIONIS. If a part of the nomination should fail, it would not easily be able to be restored later. Nor is the objection valid, derived from the fact that municipal officials, placed under the authority of the canons, would commit every evil, causing scandal to the people. For, as soon as a wrong disposition is seized by a majority of the administration, the canons could declare to the people that they had spoken out against it in vain; and thus, all the blame would be returned to the laity. Having considered both sides, the Emorum council was hesitant to decide what answer should be given.

RESOLUTION. The Sacred Congregation, on August 24, 1878, decided to respond as follows: To the first and second questions, affirmatively, that the protest issued by the canons, both in accepting the office and in each deliberation that clearly prejudices the Church, and in leading the faithful, should be done according to the judgment of the Bishop. To the third question: affirmatively to the first part, that the protest should be issued in accepting the office, and negatively to the second part. To the fourth question, the Bishop should act as he judges to be most expedient in the Lord.

FROM WHICH WE GATHER: I. That the Apostolic See protects all with solicitude, for the good of the pious cause and the rights of the Church; however, for the sake of circumstances, through tolerance, with due respect, the desired outcome is often more frequently achieved. II. For, through long experience, it knows well that war is now declared against it by liberalism, an enemy of mild counsel, I know not; who, while vehemently seeking to take away the sacred rights and the good of the Church, now, with an ill omen, gains the upper hand in the most important matters.

[*Latin ed. p. 190*]

190 FROM THE DECREE OF THE HOLY CONGREGATION FOR RITES, "CONCHO* CHIBEN". TUNQUEN. AND SINARUM. Concerning the Beatification or Declaration of Martyrdom of the Venerable Servants of God, Stephen Theodore Cuénot, Bishop of Metellopolitan; John Peter Weel; Francis Neron; Theophanis Venard, Apostolic Missionaries, and their Companions. The testimony of martyrdom, by which the divine institution of the Catholic Church is so clearly and so splendidly confirmed, could in no way be lacking to any age. For it was necessary that what Christ the Lord foretold to His disciples should be fulfilled: "If they have persecuted me, they will also persecute you." (John 15:20). Hence, from the apostolic age to our own times, there have certainly been many who, not rejecting the inestimable gift of faith, or considering the loss of goods as a trifle, have experienced chains and prisons, or have been tested by every kind

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of torment, and finally, have confirmed the Catholic Faith with their own blood. Among the almost countless number who have shed their blood for Christ in China, or in the neighboring regions of Tunquin and Cochinchina, or whose faith has been tested by various torments, chains, and prisons, thirty-eight martyrs have been selected, concerning whom authentic documents, whether from Apostolic Vicars or from others exercising ecclesiastical jurisdiction in those lands, have been sent to the Sacred Congregation for propagating the Christian name, and also to the Parisian College or Seminary for Foreign Missions. Therefore, considering the authority and importance of these documents, the aforementioned Parisian College or Seminary for Foreign Missions, desiring to promote the Cause of Beatification or Declaration of Martyrdom of all these Servants of God, implored with fervent prayers His Holiness Pope Pius IX, that, considering the particular circumstances of those regions,

[*Latin ed. p. 191*]

The Sacred Congregation of Rites, in its decree number 191, deemed it fitting to entrust to its assembly the consideration of the following question: "Can a commission be appointed to investigate the introduction of the cause [of canonization]?" However, after examining the aforementioned documents, which serve as an informative process, and after hearing the written opinion of the Reverend Father, Promoter of the Holy Office, the aforementioned petitioners, with these hopes, received a favorable response from the Supreme Pontiff. Therefore, he chose and appointed a special Congregation of the Sacred Rites, composed of the Most Eminent and Reverend Cardinals, together with the Reverend Fathers, Prelates, officials, namely, the Apostolic Protonotary, the Secretary, the Promoter of the Holy Office, and the Assessor. This assembly of the Sacred Congregation, on June 1, 1869, convened under the esteemed Cardinal Constantinus Patrizi, Prefect of the same Congregation, and, as proposed, he considered the question: "Given the evidence presented, both in general (and with the pious hope that it will be supplemented according to the instructions given by the Reverend Father, Promoter of the Faith, after consultation with the Most Holy Father regarding the revision of the documents and the admission of documents that are not directly related to the Congregation for the Propagation of the Faith, or to the Congregation for the Propagation of the Faith to foreign lands), can a commission be appointed to investigate the introduction of the cause?" Furthermore, two days later, after receiving a report from the Prelate of the same Order, the Most Holy Pope Pius IX, with a benevolent gesture, approved the admission of the aforementioned documents and granted a dispensation for the question regarding the introduction of the cause itself to be proposed before the revision of the documents. Consequently, the Promoter of the Faith issued instructions according to

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such a decree, and subsequently, after eight years, new documents were sent from the Apostolic Vicars to Rome. On May 9, 1878, at the request of Ioannes Ioseph Rouseille, a priest of the Society of Missions to foreign lands of Paris, who was appointed Postulator of this cause, the Most Holy Lord Leo XIII appointed new Most Eminent Fathers in place of those who had passed away, for a special meeting, namely: the Most Eminent and Reverend Lords Cardinals, Dominicus Bartolini, Prefect and Relator; Antonius Maria Pancbianco; Ioannes Baptista Pitra; Aloysius Oreglia a Sancto Stephano; Thomas Maria Martinelli; and Miecislaus Ledpcowski, who, together with the Reverend Fathers, Prelates, officials, Vincentius Nussi, Apostolic Protonotary; Laurentius Salvati, Promoter of the Holy Office; Augustinus Caprara, Assessor; and myself, the Secretary, would examine the question: "Should a commission be appointed to investigate the cause of the aforementioned Servants of God, and to what effect, concerning the matter under consideration?" After deliberation,

[*Latin ed. p. 192*]

492. A decree was issued that this particular Congregation would convene on the first of February of the coming year at the Vatican, and therein, by the Most Eminent and Reverend Cardinal Prefect and Relator, the aforementioned doubt, as stated above, was presented. All the Assistants unanimously arrived at this judgment: "It should be signed, if it pleases the Most Holy [Father], the Commission concerning the first thirty-four in the series, namely: Stephen Theodorus Cuénot, Metropolitan Bishop; Peter Khanh; Paul Tinh; Agnes Ba-de; Peter Dieu; John Hoan; Matthew Nguien-Van-dai, now called Phuong; Andrew Nam-Tuong; Lawrence Huong; Peter Van-Van; Michael Ho-Dinh-Hu; Francis Trung; Joseph Ledang-thi; Joseph Tchang; Jerome Lou-Tin-Mey; Lawrence Ouang; Agatha Lüh; another Joseph Thcang; Paul Tchen; John Baptist Lo; Marthe Ouang; John Peter Néel; John Tchen; Martin Ou; John Tchang; Lud Y; Peter Francis Néron; Theophanen Venard; Joseph Luu; Paul Loc; Paul Hanh; Anthony Thien; Peter Qui; Emmanuel Phung: concerning the last four, however, the investigations should be extended and supplemented." Regarding all of which, a report was subsequently made by me, the undersigned Secretary, to the Most Holy Father, our Pope Leo Xlii. His Holiness, having ratified the judgment of his own particular Congregation, deigned to sign the aforementioned Commission for the Introduction of the Cause with his own hand on the thirteenth day of the same month and year.

D. CARD. BARTOLINI

S. R. C.
Prefect Loco f

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Sigilli
Placidus Ralli
S. R. G.
Secretarius.

[*Latin ed. p. 193*]

193 APPENDIX: AUTHENTIC DECREES FROM THE ACTS OF THE CONGREGATION. John Alves, Rector of the Parish Church of the Assumption of Our Lady in Caminha, within the Archdiocese of Braga, humbly requested of the Sacred Congregation for Sacred Rites: 1. Whether the Brotherhood of Clerics of the Divine Holy Spirit, established in the same parish church, may expose the Sacrament on the main altar for the celebration of the Brotherhood's solemnities, after the completion of the parish functions? 2. Whether the aforementioned Brotherhood may celebrate a solemn Mass on the same main altar, and may carry the Sacrament in procession outside the church, and bless the people with it? 3. Whether, on any day of the week, Masses may be sung and all related activities performed without the permission of the Rector, or the parish priest for the time being? The Sacred Congregation, having heard the information presented by the undersigned Secretary, and the opinion of the Most Reverend Archbishop of Braga, having reviewed the proposed questions, responded to the aforementioned Archbishop, instructing him to seek a reconciliation that is both good and equitable between the parties. And thus it responded and ordered it to be observed on December 10, 1870. ORIOLEN. In the parish church dedicated to Saint Anne, Mother of God, located in the town of Elda, within the Diocese of Oriolen, the feast of the aforementioned Saint Anne is customarily celebrated with great devotion and solemnity. The parish priest and clergy of the aforementioned church humbly requested of the Sacred Congregation for Sacred Rites that they may begin the first Vespers of Saint Anne, making only a commemoration of Saint James the Apostle, the patron of all of Spain. The Sacred Congregation, based on the report of the undersigned Secretary, responded as follows: "For the sake of granting the requested favor, reference is made to the Decree of Santander, dated January 26, 1795, regarding Question XVIII." And thus it responded and granted permission on December 10, 1869. APOSTOLIC VICARIATE OF DENMARK. Reverend Father Hermannus Griiter, formerly an Apostolic Missionary in the Apostolic Vicariate of Denmark, and now serving in the same office as Apostolic Prefect, transmitted certain questions to the Sacred Congregation for the Propagation of the Faith, which were then forwarded by that Congregation to this Sacred Congregation for Sacred Rites for appropriate resolution. The questions proposed were as follows: QUESTION I. Among the special faculties granted to the Rector, the ninth

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is as follows: "To carry the Most Holy Sacrament..."

[*Latin ed. p. 194*]

194 APPENDIX: Concerning attending to the sick without lights, and regarding the retention of the same for the aforementioned sick in a suitable place, if there is danger of sacrilege from heretics or the unfaithful. Regarding this faculty, the following is inquired: 1. Whether, by virtue of this faculty, it is also permissible to administer the Holy Communion secretly to the sick, without sacred vestments and lights? 2. Whether, by virtue of this faculty, it is also permissible to administer Extreme Unction in the same manner? 3. Whether, by virtue of this faculty, it is permissible to bring and administer the Holy Communion to those who are held for a long time in non-Catholic prisons, in this manner, if otherwise they would be deprived of it? 4. Whether, in these cases, it would suffice if the Priest, in the very room of the sick or prisoner, were to wear only a cassock and stole? 5. Whether, by virtue of this faculty, it is permissible for a Missionary, residing in places far distant from the Church or chapels, to keep some sacred Hosts in a suitable place for the sick who may happen to be encountered, even if, in fact, no sick person is found there?

DOUBT II: In the year 1860, on September 23rd, the Reverend Apostolic Missionary Pro-Vicar of those missions made known that the Supreme Pontiff had granted them the faculty "to recite the privileged offices which are found in the supplement of the most recent editions of the Roman Breviary." Should this faculty be understood to refer only to those privileged offices which were then already found in the aforementioned supplement of the Roman Breviary, or rather, should it also extend to those which have been widely used since that time (that is, since the year 1860)?

DOUBT III: In mission areas, where Catholics frequently reside far from public churches or chapels, for example, ten or twenty geographical miles away, and the transportation of infants at a tender age over such a distance is subject to great dangers and inconveniences; whether it is permissible for a Missionary, upon being called, to solemnly baptize these infants in private homes, or to administer baptism without ceremonies, unless the danger of death is imminent?

DOUBT IV: Whether it is permissible to use a lunula to expose the Sacred Host in the ostensorium, which consists of two glass spheres joined and closed by a thin rim or a silver circle gilded, so that the Sacred Host adheres beneath the silver circle, but before and behind, the glass spheres themselves immediately touch it, and are held upright by them?

The Sacred Congregation, after hearing the opinion in writing of the Reverend D., its own Assessor, regarding the proposed doubts, decided to respond as follows:

To I: To the first question, affirmatively, if there is also a danger of sacri-

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lege from heretics or the unfaithful; to the second, affirmatively, if the same danger is present; to the third, affirmatively, if the same danger threatens and there are, in the judgment of the Missionary, serious reasons for administering the Sacred Eucharist; to the fourth, it is not necessary, whenever it can be done; to the fifth, affirmatively, as is evident from the very wording of the indult.

[*Latin ed. p. 195*]

§ III. Regarding II. The Reverend Father Secretary petitioned the Most Holy [authority], requesting that it deign to decide which offices contained in the supplement, or even those to be inserted therein, ought to be restricted. Regarding III. Affirmative, that is, baptism can be administered in private homes, provided the customary rites of the Church are observed. Regarding IV. As is explained in the case, it does not befit the sacred species to be enclosed between glass panes, with their surfaces immediately touching [them]. And thus, it was responded to on February 4, 1874. Furthermore, concerning the contents of the second question, the Most Holy Pope Pius IX was faithfully informed by the same Secretary, and His Holiness declared: The Indult is to be restricted to those offices which have been granted to the clergy of the City of Rome up to this point, or which will be granted in the future. On the 10th of the same month and year. PADERBORN. The Most Reverend Conrad Martin, Bishop of Paderborn, humbly presented to the Sacred Congregation, that in the Diocese of Paderborn, for a century past, the Feast of the Patron of the Church had been a feast of precept with a holiday for the people. Later, when, by the Bull of Pope Pius VII of April 29, 1788, for the Eastern provinces, and of Leo XII of 1828, for the Western provinces of the Kingdom of Prussia, the Feast of the local Patron was transferred to the following Sunday for the forum and the choir, the Feast of the Patron of the Church was also prescribed to be celebrated on the following Sunday with Office and Solemnity, by an Edict of the Most Reverend Bishop Frederick Clement in 1829, and thus, this practice was introduced, which continues to this day. Now, since some doubts have arisen regarding this transfer of the Feast of the Patron of the Church, the aforementioned Most Reverend Orator proposed to the same Sacred Congregation for a suitable resolution. The doubts are these: DOUBT I. Whether the Patron of the Church, since his Feast was celebrated as a feast of precept with a holiday for the people after the Bull of Urban VIII in 1630, ought legitimately to be considered as the Patron of the place, even without an election made by the clergy, the magistracy, and the people? DOUBT II. If this is negative, whether the Feast of the Patron of the Church of precept carries with it the obligation for the parish priests to apply the Mass for the People on that day? DOUBT III. If this is affirmative, whether such an obligation to apply the Mass ceases simultaneously with the abrogation of the feast of precept? DOUBT IV. Whether the Indult granted to

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transfer the Feast of the local Patron to the following Sunday with Office and Solemnity, granted in the Bull of Pope Pius VI of April 29, 1788, which begins "Potentissimus Borussiae Rex," and of Leo XII of 1828, is to be understood also regarding the Patron of the Church whose Feast was of precept? The Sacred Congregation, after hearing the report of the aforementioned Secretary, and after having heard the opinion in writing both of another of the Masters of the Apostolic Ceremonies, and of the Most Reverend Lord, Assessor of the same Sacred Congregation, responded, having ratified the matter:

[*Latin ed. p. 196*]

196 APPENDIX Regarding I. Having explained the aforementioned, the Patron of the Church is to be considered in this case as the true Patron of the place; and therefore, whatever is prescribed concerning Patrons in the Church Constitutions and Pontifical Decrees applies to him. Regarding II, III, and IV, see above. And thus, it was written and declared on February 4, 1871, in VICENSI. Since certain customs have prevailed in the Cathedral Church of Vich for a long time, which the present Most Reverend Bishop strongly doubts whether he ought to tolerate, he considered it his duty to present these customs to the Sacred Congregation of Rites, so that the same might declare what is to be done in this case. The aforementioned customs are contained in the following questions: QUESTION I. In the Conventual Mass, does the Subdeacon, holding the book before his chest, stand at the side, facing the altar, but turned towards the Celebrant and the Deacon who are in the sanctuary, making their confession? QUESTION II. Do the Deacon and also the Subdeacon, proceeding to the place where, according to custom, the Epistle or Gospel is read, wear the humeral veil in a color appropriate to the day, covering their respective books? QUESTION III. Every day, except for a few feasts, the Litany of the Saints is recited in the choir after the Third Hour; the origin of this practice is not entirely known. However, it is asserted by some that this recitation was instituted as a certain penance imposed on the residents, for which reason many leave the choir, claiming that they are not subject to this penance, as they say. QUESTION IV. In the aforementioned Litany, the names of St. Peter the Apostle, the titular saint of the Cathedral Church, and also of the saints, martyrs Lucian and Marcian, patrons of the city of Vich, are recited twice, and finally, of the Virgin St. Scholastica, whose illustrious relics are kept in that church. These saints are venerated with great devotion by the people. To the second invocation, the response is: "Pray for us." QUESTION V. Only two members of the Chapter, more distinguished than many others from many years ago, await the Bishop at the entrance to the church, called the "Cloister Gate," through which he, with his chaplains, enters the Cathedral to attend the Conventual Mass, and on his return, they accompany him to the same gate of the Bishop's house in the Cloister. Only five members

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of the Chapter come as far as the Bishop's chamber, after the choir has already begun, who assist and minister at the Pontifical Mass on the day that the Bishop celebrates. Furthermore, the Sacred Congregation of Rites, having carefully considered the matter and heard the opinion in writing of one of the Masters of the Apostolic Ceremonies, decided that the following answers should be given to the questions posed: Regarding I and II, the rubrics of the Missal, under the title "Concerning the Celebration of Mass," are to be followed. Regarding III, the Bishop should diligently inquire whether there is any true obligation to recite the Litany; and if he does not find any certain obligation, he should take care to preserve or abolish this pious custom. Regarding IV, see the Decrees issued in Cremona on April 4, 1620; in Rhe-

[*Latin ed. p. 197*]

On the 8th of March, 1631, and on the 29th of January, 1656, and on the 2nd of August, 1659, in the Order of the Minim Fathers. Regarding this, let the disposition of the Ceremonial Book of Bishops, Book I, Chapter XV, paragraphs I and XI, be observed. And thus it was written and ordered to be observed on the 4th of February, 1871. BURGOS (Burgi) OF ST. DOMINUS (S. Domnini). The Most Reverend Joseph Buscarini, Capitular Vicar of the Diocese of St. Dominus, with the episcopal see vacant, humbly requested a solution to the following doubts from the Congregation of Sacred Rites:

Doubt I. In the Diocese of Burgos of St. Dominus, as in many others, the following praises are customarily recited in the vernacular language before the Most Holy Sacrament exposed, to which certain Indulgences are attached: "May He be blessed, Blessed be His Holy Name, Blessed be Jesus Christ, true God and true Man, etc." But in some of these churches, they are recited immediately after the prayer: "O God, who to our amazement, etc." but before the Blessing is imparted to the people, in others after the Blessing with the Venerable, but before the Most Holy Sacrament is returned to the Tabernacle. Given this, is it permissible to continue both customs at will?

Doubt II. On the 9th of May, 1857, the following doubts were proposed to the Congregation of Sacred Rites by the monks of the Maurine Order: 1. Can the use of the stole be maintained during the chanting of Vespers? 2. What if the Word of God is announced? 3. What if the cope (pluvial) is worn? 4. What if, at the end of the procession, the Blessing is given with the Most Holy Sacrament? And the Sacred Congregation responded: Negatively in all cases, and the Decrees should be observed, especially the General Decree of the 7th of September, 1816, which declared that the stole should not be used except in the administration and preparation of the Sacraments, and therefore, the custom to the contrary should be completely eliminated by the local Ordinaries. From such Decrees, which prescribe the use of the stole only in the preparation and administration of the Sacra-

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ments, some servants of the Sacred Ceremonies and Masters argue that the stole can no longer be used in exposing and replacing the Most Holy Sacrament, or in transferring it from one altar to another, or in giving the Blessing with it, in commending the soul of the deceased, in funeral rites, in exorcisms, in making blessed water, in blessing women after childbirth, houses on Holy Saturday, sacred vestments, a new church or chapel, a new cemetery, in any processions, and in other blessings contained in the Roman Ritual and Pontifical, and in other similar cases, especially in sermons, in which the use of the stole is customary from time immemorial. Therefore, is it permissible to maintain this opinion in practice?

Doubt III. In many editions of the Roman Breviary, both ancient and recent, including those in Rome, on the feast of the Most Holy Angels Custodes (Guardians) on the 2nd of October, the following peculiar rubric is read: "Reading - "

[*Latin ed. p. 198*]

198 APPENDIX III. The following are omitted on certain days: 1. The Nocturns (from the Book of Exodus) are omitted on the year in which the beginning of the Book of Esther cannot be read on the preceding days, which is why it ought to be read on this feast. And in the Diocese of St. Domnin, whenever the feast of St. Michael the Archangel falls on the Thursday of the fourth week of September, the last month, as it does this year. On this very day, according to the rubric of the Roman Breviary, the beginning of the Book of Esther should be read, as on the fifth Sunday, and it should also be read for the two following days if they are free. But none of these days are free with us: not the day of St. Michael, which has its own proper office, nor the day of St. Jerome, which has the readings of the first Nocturn assigned, nor the day of the Kalends of October, when the dedication of the Cathedral Church is celebrated. It happens that Sunday, October 1st (the 2nd day), on which the Book of Maccabees should be read, unless the feast of the Most Holy Rosary occurs, and therefore the beginning of this feast is placed on the second day following, that is, on the 3rd day, and the feast of the Angels is transferred to the Thursday, which is the first free day after the Kalends of October. Therefore, the following is inquired: 1. In this case, should the particular rubric mentioned above be observed, even if it is not found in all and every edition of the Roman Breviary, and should it be valid for postponing the beginning of the Book of Esther on the feast of the Angels, even if it is transferred to the Thursday within the first week of October, in which the Book of 1 Maccabees is already read? 2. Should these readings of the Book of Esther rather be placed on the feast of St. Jerome, omitting those assigned for the common Office of Doctors, as it seems to indicate the decrees of the Sacred Congregation of Rites of May 5, 1736, and March 27, 1779? 3. Should this beginning be placed on the Thursday of the fourth week of September in place of the readings from the Book

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of Judith? What about what is read that night? 4. Should it be omitted? Furthermore, the same Sacred Congregation, in response to the report of the undersigned Secretary, decided to answer the proposed doubts as follows: To I: Affirmative. To II: Negative, or according to the Roman Ritual and Pontifical, the stole should be used in administering the Sacraments and in the administration of the aforementioned sacramentals, and also in sermons, if an ancient custom exists. To III: In this case, the beginning of the Book of Esther should be postponed to the day of St. Jerome. And so it responded on March 11, 1871. CAHORS. When, in the Calendar of Cahors, the feast of the Holy Relics or Saints is celebrated on October 26th with a double major rite, those whose bodies or relics are kept in the churches of the aforementioned diocese, the current Bishop humbly inquired of the Sacred Congregation of Rites, whether the Creed should be recited at Mass on this feast? And the Sacred Congregation decided to respond, through the report of the undersigned Secretary: "Mass with the Creed should be celebrated only in the churches of the diocese in which relics are kept."

[*Latin ed. p. 199*]

In some places, the "Credo" is recited, while in others, it is omitted. And thus, it was decreed and ordered to be observed on March 11, 1871. SAINT GERMAIN. Since there are few Masses celebrated in the Cathedral Church of Saint Germain in Canada, it often happens that the faithful come to receive the Holy Communion at a Mass celebrated with singing, to which the Bishop usually attends. However, when a controversy arose regarding the manner in which the Bishop should stand while distributing the Holy Eucharist, the following questions were put to the Sacred Congregation: 1. Should the Bishop kneel in the sanctuary, opposite the altar, as at the time of the Elevation, and thus turn his back to the faithful approaching for Holy Communion, or should he kneel on the floor or before the steps of the Episcopal seat? 2. Should he remain kneeling during the time of Communion, or only at the moment when the celebrant departs from the altar to administer Communion? The same Sacred Congregation, with the written opinion of the undersigned Secretary, responded: The custom should be observed. And thus, it was decreed on March 11, 1871. MONTREAL. The current pastor of the Church of the Nativity of the Blessed Virgin Mary, located in the place commonly called La Praine de la Magdaleine in the Diocese of Montreal, reported that the entire facade of the aforementioned church (approximately one-sixth of its total wall surface) was threatened with collapse and had to be demolished down to the remaining foundations, and a new wall has been erected in its place for the most part. In the aforementioned facade of the church, two of the twelve stone crosses, anointed with holy oil during the consecration of the aforementioned church, were found, which, however, were again placed in the newly constructed wall. The main altar of the church, which was also

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consecrated at the same time, was later removed and erected in another location. After these explanations, the aforementioned petitioner humbly requested that the Sacred Congregation would deign to declare: Whether the aforementioned church remains consecrated, so that it is sufficient to consecrate the newly erected altar. And the Sacred Congregation, with the written opinion of the undersigned Secretary, responded: Affirmative. And thus, it was decreed on March 11, 1871. SOCIETY OF THE PRIESTS OF THE MOST HOLY SACRAMENT. Raymond de Cuers, Superior of the Society of the Priests of the Most Holy Sacrament, humbly requested a solution to the following doubts from the Sacred Congregation: DOUBT I. In the case of the Vespers of the Feast of the Seven Sorrows of the Blessed Virgin Mary coinciding with the Vespers of the Feast of Saint Joseph on March 18, should the Compline be concluded with the hymn of the Blessed Virgin Mary? DOUBT II. In many places, liturgical books, such as the Breviaries and Missals, are reprinted according to...

[*Latin ed. p. 200*]

APPENDIX III. Concerning the use of punctuation, the orthography of words, and with observation, as they say, of the more accurate laws of grammar, and after comparison made with the best editions of the Holy Fathers, or even of the Sacred Scriptures, and furthermore, Hymns, Chapters, and other similar matters are transferred from place to place for the convenience, as they claim, of the users: Can these liturgical books be safely used, when they do not appear sufficiently conformed to the authentic forms of the Roman editions?

DOUBT III. When a church is dedicated not under the name of any Saint, but under the name of some mystery, such as the Holy Cross, the Most Holy Sacrament, etc., should the name of this mystery be expressed in place of the name of the Saint which is to be recited in the prayers of the first stone and the blessing or consecration of this church?

DOUBT IV. Since the sacred images and statues of the Saints must be veiled while the Most Holy Sacrament is exposed, especially on the side of the church where the exposition takes place, so that, according to the teaching of experts, the attention of those present is not distracted from the Sacrament, but is turned towards it: is it more advisable to use no sacred image in our chapels, since in them the exposition and adoration of the Most Holy Sacrament takes place continuously, especially considering this circumstance that said buildings are rather small and, so to speak, completely occupied by the exposition of the Most Holy Sacrament?

Furthermore, it was requested that the students of his Society be allowed to separate the recitation of Matins from the Lauds in the choir, so that Matins might be anticipated the evening before, at the first vespers, and Lauds recited in the early morning, since it is impossible for the students to rise in the middle of the night to recite Matins with Lauds, while each one

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must remain awake throughout the night to perform adoration in turns.

The Sacred Congregation, after mature deliberation and having heard the opinion of another of the Masters of the Ceremonies of the Apostolic See, decided to reply as follows:

To I. The rubrics are to be observed which state that if in the Vespers there is a commemoration of the Blessed Virgin Mary, the Compline is concluded with the hymn "Jesus, to you be glory, who were born of a Virgin."

To II. In the editions of the liturgical books, the laws prescribed in the Constitutions and Bulls of the Supreme Pontiffs must be strictly observed.

To III. In the prayer which begins "Lord God, who, although the name of any Saint or Saint is omitted, say: 'of the Blessed Mary ever Virgin, and of all the Saints, through their intercession,' etc."

To the blessing of the first stone, in the prayer "Lord, holy Father, almighty, eternal God," say "in honor of the Holy Cross, in honor of the mystery of the Most Holy Sacrament."

To IV. Negatively, and only the image that is present on the altar where the exposition takes place must be veiled.

To the request, the reply was: Negatively.

And thus it was replied and ordered to be observed on March 11, 1871.

[*Latin ed. p. 201*]

201 x m. NUCERINA. The Most Reverend Doctor Anthony Mary Pettinari, Bishop of Nuceria, stated that in the calendar for the use of the City of Weiden, within the limits of his diocese, the feast of Saint Paul the First Hermit had been transferred from the fifteenth day of that month to the nineteenth day of January. On that fifteenth day, the feast of the Blessed Angel of Weiden is celebrated in the aforementioned city, with a double rite of the first class, with an octave. However, since this transfer does not seem to have been made correctly, the Bishop humbly requested that the Sacred Congregation of Rites declare whether, indeed, the feast of Saint Paul could be properly assigned to the nineteenth day of January. He also stated that the canons of the collegiate church of Saxoferrato, in his diocese, enjoyed the privilege of wearing the rochet and mozzetta. In the year 1857, they obtained from His Holiness Pope Pius IX the privilege of wearing a cap in winter and a cotta over the rochet in summer. Given this established privilege, it seems that the canons can no longer enjoy the ancient custom. However, since they still sometimes wear the mozzetta at will, the aforementioned Reverend Prelate requested that the Sacred Congregation declare whether these canons are acting correctly. The Sacred Congregation itself, having heard another of the Masters of the Sacred Ceremonies in writing, approved the following response to the requests submitted by the undersigned Secretary: Regarding I. In the case of the feast of Saint Paul, it cannot be transferred to the nineteenth day of January, since that day must

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remain free. If a feast has been accidentally transferred to that day, it should be restored there, or it should be celebrated on a day within the octave of the aforementioned Blessed Angel, permanently omitting the office of Saint Canute, which is of the semi-double rite, at will. The feast of Saint Paul the First Hermit must be transferred to the first free day following. Regarding II. Negatively, the aforementioned canons can no longer use the mozzetta. And so it was written and it was ordered to be observed on March 11, 1871. MIMATEN. The Most Reverend Doctor John Anthony Mary Foulquier, Bishop of Mimat, stated to the Sacred Congregation of Rites that a custom prevailed in his diocese whereby priests, when assisting at the Office for the Dead, although they receive the established salary, do not always participate in the singing, since they often recite their own office privately, as it does not seem necessary for them to join in the singing, and they believe they have some personal reason for not differing from their canonical office. Since it is very difficult to deviate from this practice, at least in many circumstances, the aforementioned Reverend Prelate requested that this practice be allowed to continue in the future. The Sacred Congregation of Rites, after careful consideration, with the undersigned Secretary reporting, approved the following response: If it concerns only the Mass, the practice can be tolerated, provided that...

[*Latin ed. p. 202*]

202 Moreover, there should be singers specially appointed for this purpose; certainly not if it concerns the Office for the Dead, which must be recited by those who receive payment for this recitation, according to the Decree of Petercoricen, dated May 9, 1857. And thus it was decreed on March 11, 1871, by the REFORMED CISTERCIAN ORDER. Father Francis Regis, Abbot and General Procurator of the Reformed Cistercian Order, proposed the following question to the Sacred Congregation for Sacred Rites: The conclusion of the Prayer of the Feast of the Most Holy Name of Jesus is read differently in the books used by the Cistercian Order. The Breviaries and Missals conclude this prayer with: "Through Him, our Lord." However, the Antiphonals, and indeed the most recent ones, conclude it with: "Who lives with you." To avoid this difference, the aforementioned Abbot humbly requested that the Sacred Congregation declare whether the conclusion "Who lives with you" should be used in this prayer, as is the case with the new Antiphonals, or whether the conclusion "Through Him, our Lord" should be retained, as it is found in the Roman Breviary and Missal. The Sacred Congregation, having heard the opinion in writing from another of the Masters of the Apostolic Ceremonies, decided to respond as follows: Negatively to the first part; affirmatively to the second part. And thus it was decreed and ordered to be observed on April 22, 1871. IX III. TORNACEN. In the solemn Mass celebrated before the Most Holy Sacrament, exposed for the veneration of the faithful, the commemoration of the Most Holy

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Sacrament must be recited, and during the time of the Vatican Ecumenical Council, a prayer for the Holy Spirit must also be added to this Mass. Since a serious controversy has arisen among the liturgists regarding these commemorations, the following is asked: 1. Should the commemoration of the Sacrament be recited before or after the prayer for the Holy Spirit? 2. On double feasts of the first class, should the three prayers, namely, the prayer for the day, the prayer for the Most Holy Sacrament, and the prayer for the Holy Spirit, be recited under a single conclusion, or rather, should two collects, one for the Sacrament and one for the Holy Spirit, be recited under different conclusions? The Sacred Congregation for Sacred Rites, having carefully and thoroughly considered the matter and having heard the opinion in writing from another of the Masters of the Apostolic Ceremonies, decided to respond as follows: To I. Affirmatively to the first part; negatively to the second part. To II. In this case, the prayer of the Most Holy Sacrament should be joined with the prayer of the Feast; the prayer for the Holy Spirit should be recited under a distinct conclusion. And thus it was decreed and ordered to be observed on April 22, 1871. ORIOLEN. OR ALONIEN. The Most Reverend Dom Peter Cubero y Lopez de Padilla, Bishop of Oriolen, or Alonien, because of the notable cold that is felt in his diocese, especially during the winter months, and

[*Latin ed. p. 203*]

m. 203. When the position of Prelate is vacant, he is granted more rights, and he desires to perform sacred functions, both within and outside the Cathedral, with the participation of the Chapter, and to receive honors; but especially, considering the prejudice against the first Dignitary and the Canon who performs the duties of the hebdomadary, the Chapter proposed the following two questions to the Congregation of Sacred Rites, in order to safeguard its rights:

QUESTION I. Do the five Vicars of the Chapter, when honorific distinctions and privileges are conferred upon the General Vicar of the Bishop, or rather, upon the representative of the Chapter, possess these rights, so that it is always and everywhere recognized that the subordinate is inferior to the superior?

QUESTION II. Can the Vicar of the Chapter, of his own accord and by right, perform functions, both within and outside the Cathedral, with the participation of the Chapter, or rather, can he do so only in the case that the Vicar holds the first Dignitary or performs the duties of the hebdomadary, according to the practice in force in the Cathedral itself?

The Sacred Congregation of Rites, having heard the written opinion of one of the Masters of the Sacred Ceremonies, approved the proposed questions and responded as follows:

To 1. Negatively. He should proceed collegially with the Chapter, but all honors, distinctions, and rights belong to the first Dignitary of the Chapter

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in the successive order, and a Decree should be issued in Nicotera on the 23rd of July, 1667.

To 2. Negatively, according to other decrees already issued, and because, wishing to promote the well-being of its priests, and considering the excessive heat of the sun, which in summer causes great discomfort, the Sacred Congregation of Rites humbly requested:

1. Whether it is permissible for a Minister carrying the Holy Eucharist to the sick, whether they reside in towns or in the countryside, to walk with his head covered, that is, with a biretta or a skullcap, when, due to inclement weather or excessive heat of the sun, there is a well-founded fear for his health?

2. Whether, under the same circumstances, it is permissible for a Minister carrying in procession the Image of the Face of Our Lord Jesus Christ, which is usually taken from the church in which it is habitually kept, and carried processionally for four thousand paces from the city of Alonien, during times of public calamity, to the aforementioned Collegiate Church of the city of Alonien?

The same Sacred Congregation, having carefully considered the matter, approved the following response:

It is permissible to request permission from the Holy See to wear a skullcap in this case. On the 22nd of April, 1871.

The aforementioned matters were faithfully reported to His Holiness Pope Pius IX, and His Holiness entrusted the matter to the Most Reverend Ordinary of the Diocese of Oriolen, or Alonien, so that, in the name and with the authority of the Holy See, he might, according to his own judgment and prudence, grant to the priests of his diocese, in the aforementioned cases, the permission to wear a skullcap. On the 27th of the same month and year.

FAVENTINA. When the Vicar of the Chapter of the Diocese of Faventina, that episcopal see...

[*Latin ed. p. 204*]

204 APPENDIX III. especially in Syracuse on August 7, 1627; Regarding the second part, if, in fact, concerning the hebdomads, there exists a demonstrated custom. And thus, it was recorded and ordered to be observed on April 22, 1871. URGELL. The Master of Ceremonies of the Cathedral Church of Urgel, in the calendar of that diocese, humbly presented the following questions concerning sacred rites to the Congregation for Sacred Rites:

QUESTION I. Does there exist in the aforementioned Cathedral Church an unforgettable custom of singing the solemn votive Mass of the Holy Spirit before the canonical hours, for the inauguration of the Paschal Chapters, which takes place annually on the second feria after the Sunday in

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Albis, even though the office of Double occurs? And since, according to the decrees of this Sacred Congregation for Sacred Rites, a grave and public reason is required for singing such votive Masses; is it asked whether the aforementioned inauguration can be considered a sufficient reason for singing the aforementioned Mass of the Holy Spirit? Can it, at the very least, be sung by virtue of the aforementioned unforgettable custom?

QUESTION II. Are those who are beneficed and who assist at such a Mass celebrated by the first dignitary in the offices of presbyter, deacon, and subdeacon, obliged, after the Mass has been sung, to accompany the aforementioned dignitary, who is divested of the sacred vestments, in canonical habit, walking midway between the deacon and the subdeacon with a stole, and thus to proceed processionally without a cross to the Chapter hall located in the cloister? Or rather, should such a practice be considered an abuse that must be completely eliminated, even though it has been customary from ancient times?

QUESTION III. Is it permissible to cover the bier, on which the bodies of deceased Canons are placed, with a translucent white veil with golden fringes, not only while they are being carried to the church, but also while the funeral office is being performed within the church itself?

QUESTION IV. Can lay singers, who are employed in the choir due to the lack of clerics who have a good voice, and who are always dressed in a completely lay manner outside the church, wear copes both within the aforementioned choir and outside the church during public supplications, so that the faithful, seeing them thus adorned with sacred vestments, may not be led astray?

QUESTION V. Since some believe that the Hymn "Gloria in excelsis" and the Creed should be recited alternately with the ministers, as is done by the singers in the choir, perhaps based on the words of the Ceremonial of Bishops, Book L, chapter 2, section 8, paragraph 39, where, speaking of the Gloria, it says: "The Bishop (after the intonation) follows it with his ministers. The Deacon and Subdeacon, and the Prelates and Canons in their places, do the same together": and paragraph 52 "The Bishop with his ministers recites (that is, the Creed) in a subdued voice, likewise."

[*Latin ed. p. 205*]

X, and the Deacon and Subdeacon, stand before the altar, and the Canons say among themselves: "Therefore, in order that uniformity may exist in practice, it is asked whether the Gloria and the Creed should be said alternately as the Kyrie, or rather, should each of them be recited by all, following, but not preceding, the Bishop or Celebrant?"

DUBIUM VI. The Office of Dedication of this Cathedral Church, which is celebrated on the Sunday two days after the Kalends of October, frequently coincides or occurs with the Office of the Blessed Virgin Mary of Kolomna,

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Patroness of the Kingdom of Aragon, which is celebrated on the 12th day of that same month of October, and which is recited throughout Spain with a double of the first class, with an octave, by concession of the Most Holy Pope Pius IX, happily reigning, in the year 1862. Since, therefore, the feast of Dedication, according to the Decree of this Holy Congregation of Rites of September 20, 1806, should be considered, as the Rubricists believe, a secondary feast, and therefore should give way to the feasts of the Saints Peter and Paul, the Assumption, and other feasts of the Blessed Virgin Mary, the question is asked: in the case proposed, which Office should be celebrated, considering the feast of the Blessed Virgin Mary of Kolomna as a "pri"mary feast; or, should the Office of Dedication be celebrated, if the feast of the Blessed Virgin Mary of Kolomna is considered a secondary feast? And if the feast of Dedication is to be transferred, on what day should it be transferred?

DUBIUM VII. When Saints who are removed from their ordinary see because of the Patrons or Titular Saints of Collegiate and Parochial Churches, and also their octaves, must be celebrated on the nearest following holidays, with due observance of the order according to the Rubrics, it is asked whether those holidays can be considered only those days on which no Saint, although permanently affixed, is celebrated, but rather whether those holidays in the case proposed should also be considered those days on which Saints transferred by the Sacred Congregation of Rites are affixed in the General Diocesan Calendar, especially when a Saint who is to be transferred in a particular or parochial church of higher rank or dignity exists, or is even prior to the Saint who is placed on that holiday by the Sacred Congregation of Rites? Should another nearest free day be assigned for the fixed see, with the first see assigned to the Saint of the Parochial Church of higher rank, etc., as above?

The Sacred Congregation itself, having heard the opinion in writing of another of the Masters of the Apostolic Ceremonies, decided that the following answers should be given to the proposed questions:

To I: Attentive to the sacred custom, the Sacred Congregation permits this practice to continue; provided that a double of the first or second class does not occur.

To II: In order to eliminate abuses.

To III: Negatively.

To IV: The Laity cannot use Pluviales [liturgical vestments], but it is tolerated for them to wear Cottas [a type of alb] only if the Clergy are lacking.

To V: The Gloria and the Creed should not be recited alternately by the Celebrant and the Ministers, but the entire text should be said by all, not preceding nor following, but simultaneously.

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To VI: Since it is a question of Dedica-

[*Latin ed. p. 206*]

206 APPENDIX III. concerning the affairs of the Church, which is the primary matter, preference should be given to the feast of the Blessed Virgin Mary in the secondary case; in cases of equal rank, it yields only to the feasts of the Lord, according to the Decree of May 14, 1856, section III, of the Order of Friars Minor of the Observance. Regarding the "Days of Freedom," they are to be considered as such only on days on which no Saint, even a transferred one, is assigned. And so it was decreed, granted, and ordered to be observed on April 22, 1871. RATISBON. The following questions are asked: 1. With what words should this be done? Should it be with the words: "in the presence of the Blessed and most glorious Virgin Mary, Mother of God, together with her most pure Spouse, Saint Joseph, and the Blessed Apostles, etc.," or with other words? 2. Should the name of Saint Joseph be placed before the names of the Angels and Saint John the Baptist when joined with the Blessed Virgin Mary? 3. How and in what manner should such a Decree be added to the Missal? Perhaps in the heading of the same, among other Decrees of the Sacred Congregation of Rites?

DOUBT: The Knight Frederick Pustet, Typographer of Ratisbon, humbly requests a solution to the following doubts from the Most Holy Office:

DOUBT I. Whether the Creed should be recited in the future on the feast of the Nativity of Saint Joseph and on the feast of his Patronage, even if that feast sometimes falls on another day due to the transfer from Sunday. And if so, how should it be stated in the Missal? How should the new precept regarding the recitation of the Creed be stated in the General Rubrics of the Missal, Title XI, concerning the Creed?

DOUBT II. Whether in the Missal and in the Breviary, on March 19th, on the feast of Saint Joseph, the following should be added: "Saint Joseph, Confessor, Spouse of the Blessed Virgin Mary, and Patron of the Catholic Church"; and whether this should also be done in the Calendar, or whether it is necessary.

DOUBT III. Since the name of Saint Joseph is to be added in the future to the prayer "From all," whether, from now on, the feast of Saint Joseph should be placed among those feasts in which Bishops are accustomed to celebrate solemnly, according to section XXXIV of the Book of Ceremonies for Bishops?

The Sacred Congregation, having also heard the written opinion of another of the Masters of the Apostolic Ceremonies, decided to respond to the proposed doubts as follows:

To I. It is to be recited, the Creed, both on the feast of the Nativity of Saint Joseph and on the other feast of his Patronage, even in the case of its transfer from Sunday. In the Missal, after the Gospel, for both feasts, it is

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sufficient to place the word "Creed." However, in the general Rubrics, after the words "In the feasts of the Angels," add: "In the feasts of Saint Joseph, Spouse of the Blessed Virgin Mary."

To II. Neither in the Missal nor in the Breviary, nor in the Calendar, should the words "Patron of the Catholic Church" be added before these, but only in the Order of the Divine Office.

[*Latin ed. p. 207*]

[Regarding matters of citation and the performance of rites, which are compiled annually for the clergy. Regarding Part III, concerning the First and Second sections: In the Common Prayer, after the invocation of the Blessed Virgin Mary, and before any other patron saints, with the exception of the Angels and Saint John the Baptist, the commemoration of Saint Joseph should always be added, using these words: "with Blessed Joseph." Regarding the Third section: This decree must not be added to the Missal, but it is sufficient that the Common Prayer be recited by all using the words stated above, and after it, the following rubric should be added, clearly marked in red: "In this Prayer, the names of the Saints Angels and Saint John the Baptist are placed before Saint Joseph." Regarding Part IV: Negatively. And so it was written and ordered to be observed on April 22, 1871. SALTEN. Among the requests transmitted to the Sacred Congregation of the Council regarding the status of the Church in Salten, the following two were found: 1. Is it permissible for Canons and Beneficiaries to participate in the choir, without a surplice and in ordinary attire, either because of the cold or for other reasons, as has been the primacy since the founding of the church? 2. Is it permissible for the custom, originating from the founding of the Chapter, of celebrating the Conventual Mass after the Nones to continue? When the aforementioned Sacred Congregation sent these same requests to this Sacred Congregation for a suitable solution, this Sacred Congregation, in accordance with previously issued decrees, decided to respond. Regarding I: Negatively, and the abuse must be eliminated. Regarding II: Negatively, and the rubrics must be observed. And so it was written and ordered to be observed on May 2, 1871. DREPANEN. In the collegiate church dedicated to Saint Peter in the city of Trapani, when, due to the law of suppression, the first and second civil dignities ceased, to which dignities, according to the constitutions, the parochial duties belonged in said collegiate church, the Most Reverend current Bishop, in order to perform only the parochial duties, chose a simple priest, to whom he also gave institution and the title of Archpriest Parochial, but not the rights of the dignity, since to do so is reserved to the Apostolic See. However, when the one chosen claims to have more duties pertaining to said parochial matters, as if he had acquired the privileges of the dignity and of the Canons of that collegiate church, many controversies arose with the surviving third dignitary and the Canons, and to resolve these, the aforementioned Most

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Reverend Bishop humbly requested the Congregation of Rites to provide a solution to the following doubts: DOUBT I. To whom does the celebration of the solemn Mass on Thursday of the Holy Week and the entire observance of the Holy Saturday belong, namely, to the third dignitary?

[*Latin ed. p. 208*]

APPENDIX III. Concerning dignity, as has been the case thus far, when the first and second dignities are vacant, or rather, to the Parish Priest?

DOUBT II. Can the Parish Priest put on the sacred vestments in the canonical hall and there, at his own discretion, perform other things which belong to the Canons, without the express permission of the Canons themselves?

DOUBT III. To which place does the Parish Priest belong in the choir and in processions, when the Chapter of the collegiate church is present?

DOUBT IV. Can the Parish Priest use a stole in the choir and in processions, when the Chapter is present?

DOUBT V. Can the Parish Priest use a silk mantellete of violet color, as he claims?

The Sacred Congregation, having heard the opinion of two Masters of the Apostolic Ceremonies, decided that the doubts should be answered as follows:

To I: It pertains to the dignity and to the Canons, in the subsequent order, and not to the Parish Priest.

To II: No.

To III: In the choir and in processions, the Parish Priest must have precedence over simple priests, but he must never sit or walk among the Canons and Mansionaries of the Church.

To IV: No.

To V: Based on the above, No.

And thus it was answered and it was ordered to be observed on July 5, 1871.

PIUS P. P. IX.

FOR PERPETUAL REMEMBRANCE.

The illustrious Patriarch, Blessed Joseph, whom Almighty God willed to be, above all his saints, the purest and truest spouse on earth of the immaculate Virgin Mary, and the putative father of his only-begotten Son, and to whom he abundantly bestowed and accumulated entirely singular graces, deserves that the Catholic Church, crowned with glory and honor in heaven, follows him with the most ample worship and venerates him

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with the deepest affection.

Therefore, Our Predecessor Popes, in order to increase and more intensely excite devotion and reverence for the holy Patriarch in the hearts of the faithful, and to encourage them to implore his intercession with the Lord with the utmost confidence, have not failed, whenever the opportunity arose, to assign new and greater public signs of worship to him. Among these, it suffices to recall that Our Predecessors, in the annals of memory, included Pope Sixtus IV, who wished to insert the feast of St. Joseph in the Breviary and the Roman Missal; Pope Gregory XV, who by decree of May 8, 1621, ordered the feast itself to be celebrated with a double first class throughout the world; Pope Clement X, who on December 6, 1669, granted the same feast the rite of a double second class; Pope Clement XI, who by decree of February 4, 1714, adorned the aforementioned feast with its own proper Mass and Office; and finally, Pope Benedict XIII, who ordered the name of the holy Patriarch to be added to the litanies of the Saints, by decree issued on December 19, 1726. And We ourselves, after careful deliberation and with the judgment of God, have been raised to the supreme...

[*Latin ed. p. 209*]

209 APPENDIX III. We were led to establish the feast of Saint Joseph, moved both by the examples of our illustrious Predecessors, and by the singular devotion with which we have, since our youth, been affected towards that same holy Patriarch, by a decree of September 10th, in the year 1847, with great joy of mind, we extended the feast of his patronage to the entire Church, under the rite of the second class, which was already celebrated in several places with the special indulgence of this Holy See. But in these latter times, in which a terrible and most grievous war has been declared against the Church of Christ, the devotion of the faithful towards Saint Joseph has so increased and progressed, that from all sides countless and most fervent petitions have reached Us, which, recently, during the Sacred Ecumenical Council of the Vatican, were renewed by all the faithful, and, above all, by many of our Venerable Brothers, Cardinals and Bishops of the Holy Roman Church, in which they implored that, in these sorrowful times, we might more efficaciously implore the mercy of God through the merits and intercession of Saint Joseph, declaring Him the Patron of the Catholic Church. Therefore, moved by these petitions, and invoking Divine light, we judged it fitting to assent to so many and so pious wishes, and by a special Decree (1) of Our Congregation of Sacred Rites, we ordered that, among the solemnities of the Masses in Our Patriarchal Basilicas of the Lateran, the Vatican, and the Liberian, on the 19th of March of the past year, 1877, the Immaculate Conception of His Spouse should be publicly celebrated, and that We solemnly declared the Blessed Patriarch Joseph the Patron of the Catholic Church, and We ordered that His feast, which falls

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on the nineteenth of March, should henceforth be celebrated throughout the world under the rite of the first class, but without an octave, because of the Lenten season. And since We deem it right, after Our declaration of Saint Joseph as the Patron of the Catholic Church, that all and singular honors be given to Him in public ecclesiastical worship, which, according to the general rubrics of the Breviary and the Roman Missal, belong to the principal Patrons, therefore, renewing, confirming, and even amplifying, with these present Letters, the aforementioned disposition of that Decree, We command and order the following. We wish that, both on the feast of the Nativity of Saint Joseph, and on any other feast of His patronage, even if they occur on a day other than Sunday, the Creed, or "Symbolum," should always be added in the Mass. We also wish that, whenever the "A cunctis" prayer is recited, after the invocation of the Blessed Virgin Mary, and before any other patron saints, except the Angels, and Saint John the Baptist, the commemoration of Saint Joseph should always be added with these words: "with Blessed Joseph." Finally, We order that, observing this very order, among the Suffrages of the Saints, (1) You have this decree, Ut. VI, page 143. ~Acts, volume XII, chapter CXXXVII, page 14.

[*Latin ed. p. 210*]

210 APPENDIX III. Whenever these are prescribed by the rubrics, the following commemoration shall be added in honor of Saint Joseph. (Antiphon for Vespers): "Who, thinkest thou, is a faithful and wise servant, whom his lord hath appointed over his family, to give them meat in season?" And his justice shall remain forever and ever. (Antiphon for Lauds): "Jesus was about thirty years old when He was thought to be the son of Joseph." His mouth shall speak wisdom, and his tongue shall speak judgment. (Prayer): O God, who, by Your ineffable providence, deigned to choose blessed Joseph, the spouse of the most holy Virgin Mary, Your Mother, grant us, we pray, that those whom we venerate on earth may have the intercession of him in heaven. We declare and command that these Our letters shall be firm, valid, and efficacious, and shall have their full and complete effect, notwithstanding any Apostolic Constitutions and Ordinances, or any other contrary provisions. We will that copies of these letters, or even printed exemplars, signed by the hand of a public Notary and sealed with the seal of a person constituted in ecclesiastical dignity, shall have the same force and effect as if the originals were exhibited or shown. Given at Rome, at St. Peter's, under the Fisherman's Ring, on the 7th of July, 1871, in the twenty-sixth year of Our Pontificate. In the place of [signature]. For the Most Reverend Cardinal Paracciani Clarelli, F. Profili, Bishop of Przemyśl, of the Latin Rite. The following has been humbly requested by the Bishop of Przemyśl, of the Latin Rite, to the Sacred Congregation of Rites:

QUESTION I. Has the concession been granted for the Diocese of Prze-

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myśl? By Decree of the Sacred Congregation of Rites on May 19, 1864, the Feast of the Immaculate Heart of the Blessed Virgin Mary, to be observed on the last Saturday of May, with a double major feast. In the Breviaries and Missals, for some places, on the Sunday after the Octave of the Assumption of the Blessed Virgin Mary, a double office of this feast is prescribed: one which is entirely recited from the Common of Feasts of the Blessed Virgin, and another proper to the feast. Therefore, it is humbly asked, which office should be recited and which Mass celebrated in the Diocese of Przemyśl?

QUESTION II. Within the Octave of Saint Michael the Archangel, the principal patron of the Kingdom of France, the Feast of the Angels Custodes occurs. Is it asked whether the commemoration of the aforementioned Octave should be observed on this feast?

QUESTION III. The Feast of the Patronage of the Blessed Virgin Mary is celebrated in the Diocese of Przemyśl on the second Sunday of November, and there is also the faculty to transfer this feast to the following free day. It is asked, therefore, which votive Mass of the Blessed Virgin Mary should be celebrated in this case, if the transfer of this feast to the time of Advent should occur? Should it be the votive Mass, "Salve, Sancta Votiva," from Pentecost to Advent, or the votive Mass, "Rorate Coeli," with the Gospel of Jesus speaking?

[*Latin ed. p. 211*]

APPENDICES: The Holy Congregation deemed it necessary to write regarding the following questions: To I. The Holy Congregation grants that, in this feast, the proper office may be used, along with the Mass approved on July 21, 1855. To II. Postponed. To III. An answer shall be given to Question V I, in Hispalensis, on August 18, 1818, which reads as follows: In the Feast of the Patronage of the Blessed Virgin Mary, when it is transferred during the time of Advent, nothing should be changed except for the IX Antiphon, to which the Angelus Domini is substituted, and the last part of the Gradual in the Mass, which will be the "Ave Maria" appropriate for the time of Advent. And thus it was written and granted on July 30, 1871. GERONA. The Reverend Father Gregory Moratinos, Master of Ceremonies of the Cathedral Church of Gerona, humbly requested a solution from the Holy Congregation of Rites regarding the following questions: QUESTION I. By Decree of the Holy Congregation of Rites on July 21, 1870, the feasts of the Spanish Doctors, Saint Fulgentius and Saint Leander, were raised to the rank of Double of the Second Class, with the faculty of reciting the office and celebrating Mass for the Doctors in all jurisdictions of Spain. Although it can be deduced from the words of the concession that the office should be taken from the Common of Doctors, apart from the proper ones, in order to remove any ambiguity, the following is asked: 1. Should the Readings for the First Nocturn be as in the Common of Doctors, namely, the Book of Wisdom? 2. Should the Readings proper to each feast, already

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assigned for the Second and Third Nocturns, be retained? 3. Should the same be said of the Prayers? QUESTION II. His Holiness Pope Pius IX, through the Decree of the Holy Congregation of Rites on December 8 of the past year, 1870, declared Saint Joseph, Spouse of the Blessed Virgin Mary, the Patron of the Catholic Church. According to the rubrics and already repeated Decrees of the Holy Congregation of Rites, the Patron should have the Creed and a Commemoration in the prayers for the Saints in the Mass; therefore, the following is asked: 1. Should the Creed be said in the feast of Saint Joseph, both in private and in sung Masses, in the future? 2. Should a Commemoration of the same Saint be made in the prayers for the Saints? And if so, 3. Where should it be placed, before or after the Patrons of the Kingdom and Diocese? QUESTION III. The Feast of the Patronage of Saint Joseph, being a secondary feast when it coincides with the feasts of the Apostles and Evangelists, is transferred, and the office for the Apostles and Evangelists is celebrated, according to the Decree issued in the Order of Discalced Carmelites on February 16, 1781, ad 17 e t 18. And with the elevation of the rank and dignity of this Patriarch, the following questions arise: 1. Will the Feast of the Patronage of Saint Joseph, in the future, be a feast of Double of the Second Class or of the First Class? 2. In the first case, should it be considered as a primary feast, so that when it coincides with the feasts of the Apostles and Evangelists, it takes precedence?

[*Latin ed. p. 212*]

212 APPENDIX XIII: Does it have? 3. When, according to the regulations, should the transfer of the "Credo" in the Mass occur, and is it permissible to say it on a day other than Sunday? And the Sacred Congregation, having considered the proposed questions, decided to respond as follows: To I: Affirmative in all cases. To II: Provision is made for this in the Apostolic Letter in the form of the "Breviary," dated July 7 of the current year, which begins with the words "Illustrious Patriarch." To III: Regarding the first and second questions: No change has been made concerning the rite and dignity of the Feast of the Patronage of Saint Joseph. Provision is made for this in the Apostolic Letters mentioned above. And thus, it responded on August 7, 1871, assigning the Mass of "Sapientiam" with the Gospel from "He who descended from Heaven" to the feast days of the aforementioned saints. For the feast days of Saints John Nepomucene and Anthony, the Mass "In virtute" is assigned, with the Gospel (for the first) from "Rejoice." In the Missals and Breviaries, especially those used in Mechlin, the following readings are assigned: for the feast days of Saints Fructuosus and Gavinus, the readings from the third nocturn of the Mass of the first class are used; for Saints John and Anthony, the Mass "Rejoice" is assigned for the second class, with the Gospel "Unless a grain of wheat falls into the earth..." The question arises: which of these readings should be considered the authentic one? URGELLEN. The Cathedral Episcopal

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See, with its armrests, has been placed for several years under a canopy erected in the manner of a throne in the sanctuary, which is made of simple damask silk of a red color, with borders and supports made of gilded wood, and on whose summit is the coat of arms of the Bishop. The question is therefore raised: given the serious inconvenience of a change, can the aforementioned red baldachin remain in place on all feast days, especially since the "Caeremoniale Episcoporum," book 1, chapter 14, § 1, states that the canopy should be in accordance with the color of the vestments, where it is conveniently possible? Would it suffice, in the aforementioned case, to cover the said seat with armrests with silk of a color appropriate for the feast? DOUBT III. Can the two armrests and the aforementioned border made of gilded wood be retained? DOUBT II. In this esteemed Church, the following doubts were proposed to the Congregation of Sacred Rites by the Master of Ceremonies of the Cathedral Church of Urgellen, and the Director of the Calendar of the same Diocese, for a suitable solution: DOUBT I. Many Missals and Breviaries differ among themselves in assigning Masses and readings for the third nocturn in the Offices of Saints Fructuosus and his companions on January 21, Saint John Nepomucene on May 16, Saint Anthony on September 2, and also the feast days of Saints Gavinus and his companions on October 25: for not a few Missals in Spain assign to the aforementioned Saints the readings from the third nocturn of the Homily on "He who descended from Heaven" from the second class, and also the Mass "Sapientiam" from the second class, and

[*Latin ed. p. 213*]

213 X III. If neither gold nor silver is found in the damask silk textile? QUESTION I V. Whether the shield of the Bishop of Urgell, containing the insignia of the family, principality, and bishopric, can and should be preserved in the aforementioned throne, even if the Bishop is not present, at least as long as he exists de jure and de facto as the supreme Prince of the public Vallium of Andorra, which is located approximately two and a half hours' distance from this city? This is according to the Decree of the Sacred Congregation of Bishops and Regular Canons of January 14, 1665, cited by Joseph Catalani in his commentaries on the aforementioned Ceremonial of Bishops, Book 1, Chapter 13, number 24? QUESTION V. The feast of the Imprint of the Holy Stigmata on the body of St. Francis is found in this Diocese and in others of Spain, on September 22, coinciding with the feast of St. Peter of Arbues on the 17th of the same month. Since the Decree of the Congregation of Sacred Rites, dated September 2, 1741, concerns a change to be made in the hymn: "This confessor," it is asked whether, in the aforementioned feast of the Translation of St. Francis, the hymn should say: "He merited the highest honors of praise," as Cavalieri believes, in Volume 2, chapter 40, on hymns; or rather, should it be read: "He merited the blessed wounds of Christ," as others suggest? QUESTION VI. What

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readings should be assigned for the first nocturn to the Saints Dominic of Guzman, Ignatius of Loyola, and Joseph Calasanctius, according to the double rite of the second class, for the entire of Spain, as determined by the Sacred Congregation of Rites on July 21, 1870? QUESTION VII. Is it necessary to cover the interiors of the tabernacles with white silk, or is a simple gilding equivalent and sufficient? QUESTION VIII. Since many of the tabernacles in this Diocese are only gilded on the inside, can those that are constructed in this way at least be tolerated? QUESTION X. Regarding the nuns of the Monastery of the Society of Mary for the education of girls, commonly known as "de la Enséname," it is stated that, according to the regulations of their Institute, approved by Pope Paul V the Most Holy, on April 7, 1607, the nuns receive the Holy Communion on the night of the Nativity of the Lord. Thus, it is stated in Rule 71: "At midnight, the Matins should end so that the priest begins the Te Deum, and then the Mass in which all the nuns will receive Communion, and after the Mass, they will recite Lauds." However, since Decrees of this Sacred Congregation generally prohibit this, the question is asked: Can the aforementioned nuns safely continue this practice, as stated in the Rules? The same Sacred Congregation, having heard the opinion in writing of another of the Masters of the Apostolic Ceremonies, has responded: "I. Special concessions must be observed, and they must be followed. II. It may be permitted, especially if the altar itself has arms [supports]."

[*Latin ed. p. 214*]

APPENDIX III. 214. Concerning the serolic color for the feast, the same requested that the following doubts be clarified. To III and IV: Affirmative to DOUBT I. Whether the Mass of Requiem, or both, which are celebrated on the day of death in the presence of the body, are obligatory, even if no alms are given. To V: It is to be said in every case: The offering for this Mass should be paid by those who have been wounded by the wounds of Christ. To VI: The readings for these Saints should be "Blessed is the man." DOUBT II. And to the extent that it affirms, whether it can be applied for a deceased poor person present with his body. To VII: It is not necessary. To VIII: Provided for in the aforementioned, whether for the deceased or for the living. To X: If the rules are approved by the Apostolic See, can the aforementioned votive Masses retain the announced custom, except for the principal ones, to be read even then? And only then did it write on May 10, 1871. Furthermore, the same Sacred Congregation, having heard the report made by the undersigned secretary, and after mature and careful consideration, decided to write as follows: Reverend Father, the current Capitular Vicar of the Diocese of Adrian. To I: Where there is no special obligation of the Episcopal See, it is to be noted that what follows from the Rituali Romanum concerning funerals of the poor: In the funerals of the poor, the Parish Priest and other priests of the aforementioned Diocese

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freely perform all things, and many of them even omit the office for the deceased and celebrate the Mass for the deceased, as prescribed by the Rituali Romanum, before the burial. But, as they do not receive any alms for such funerals, it is certainly said that the Mass, even with singing and the reading of the Mass of Requiem, is applied. Which is on the day of death or deposition, but instead of applying it for the deceased, it is applied for other deceased for whom alms are received, or according to the intention of those offering. When the aforementioned Orator doubts that this is not in conformity with the Decrees of the aforementioned Congregation regarding funerals and Masses for the dead, therefore, he humbly asks... Reverend Father Ludovicus Betansy, Rector of the Calendar of the Diocese of Oranen.

[*Latin ed. p. 215*]

To the Most Holy Congregation of Sacred Rites, the undersigned humbly submits the following questions for resolution:

QUESTION I. Whether, concerning the titular churches, which are patrons of places and are not established by law, nor by legitimate custom, the clause of the Decree of April 9, 1802, can be applied, which permits, indeed commands, that even the patrons of any diocese and parish celebrate the solemn Mass in their honor on the Sunday following their feast day, according to the customary votive rite? To this, a negative response is requested. It is humbly requested that an Indult be granted whereby each parish, whether already established or about to be established, may receive permission to solemnly celebrate the feast day of its titular saint on the Sunday following, according to the customary votive Mass, and that the same faculty be granted to all churches of the entire diocese with regard to the feast day of St. Lewis, the titular saint of the Cathedral.

QUESTION II. Whether, by virtue of the aforementioned Decree, Cardinal Caprara has rightly established, for all parishes of the Oranensis diocese, the feast of the Dedication of all churches of Gaul, under the rite of a double of the first class with an octave? To this, a negative response is requested. It is humbly requested that an Indult be granted whereby the aforementioned feast may legitimately be observed under the rite of a double of the first class and with an octave, for its suppression would be a great scandal to the faithful.

QUESTION III. Relating to the first question above, the following subsidiary questions are asked: To the Editor of the Diocesan Calendar, it is asked: 1. Should a commemoration be made of St. Lewis, the titular saint of the Oranensis Cathedral, which is not dedicated but blessed, among the Common Suffrages at the Third Hour, at Lauds and Vespers, and by whom, whether only by the clergy of that church itself, or also by all the clergy of the diocese in the sacred offices? 2. Are the priests attached to the service of parochial churches, which are not dedicated but blessed, obliged to make a commemoration of their titular saints? 3. What about the titulars

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of parishes, whose churches have not even been consecrated or blessed? 4. Finally, since in these parts of Africa there is no true patron, whether of the Kingdom, Province, Diocese, or even of the place itself, it is asked how the clergy who are established in the sacred offices can comply with the rubrics of the Roman Breviary, which command that a commemoration of the patron or titular saint of the church be made among the suffrages, when they are not bound by the service of any church?

The Most Holy Congregation, having heard the report made by the undersigned Secretary, and also the opinion of another of the Masters of the Sacred Ceremonies, decided that the proposed questions should be answered as follows:

To I. Negative with regard to the question; with regard to the request for the concession of a single solemn Mass, as was granted for the patrons by His Eminence Cardinal Caprara, the Legate *a Latere*.

To II. Negative, both with regard to the question and the request.

To III. To 1. Affirmative; but only by the clergy attached to the service of the Cathedral. To 2. Affirmative. To 3. Affirmative, and if their blessing has been omitted, let them be blessed as soon as possible, so that the church may be dedicated to the divine cult.

[*Latin ed. p. 216*]

216 It is fitting, at the very least, that [a church] should be blessed. 4. He who does not belong to any parish should not perform any titular commemoration, which also applies to the commemoration of the patron, when no patron is designated for the place, the diocese, the province, or the kingdom. And thus, an indulgence was granted and it was ordered to be observed on September 2, 1871, in TAURIN. In the church of Saint Philip in Taurin, the main altar enjoys the privilege of a daily privileged altar. However, in order that the Holy Communion might be administered there to the faithful, it was granted that the priests celebrating there should enjoy the aforementioned privilege, even if they did not say Mass for the Dead on days not prohibited, but rather for the Saints or on a Feria. Later, when the Congregation of Sacred Rites decided that the Holy Communion could be administered in Masses for the Dead, it humbly requested of the same Sacred Congregation whether, with this decree in force, the aforementioned privilege would cease, or rather, would remain in force. The Sacred Congregation itself, with the aforementioned Secretary present, having heard the opinion of the Reverend Assistant of the same Congregation, declared: With the aforementioned general decree of June 22, 1868, the privilege or indult mentioned above does not cease. On September 2, 1871, in FABRIAN. Since the Masters of Ceremonies of the Cathedral and Collegiate Church of the city of Fabrian do not have the same opinion regarding the color of the vestments that should be used in the Blessing with the Holy Cross, which is usually given in both churches after the recitation of certain prayers and the

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completion of the Compline on the day that marks the anniversary of the dedication of the respective church, the Master of Ceremonies of the Collegiate Church, in order that due uniformity be maintained in the sacred ceremonies, humbly requested that the Sacred Rites Congregation declare what color the vestments should be in the Blessing, which is customarily given in both churches on the anniversary of the dedication, especially when this function is performed separately from the choral service and is entirely completed? The Sacred Congregation itself, with the Secretary present, having also heard the opinion in writing of another of the Apostolic Masters of Ceremonies, declared: In this case, the vestments should be of the color red. And thus, it was declared and ordered to be observed on September 2, 1871, in VALLISPRATEN. The Reverend Monsignor Eugenius O'Connell, Bishop of Vallispraten, humbly requested a solution to the following doubt from the Sacred Rites Congregation: Do churches of his diocese, which are only blessed, enjoy the same privilege as churches that are dedicated on the feast of their titular saint? The Sacred Congregation itself, with the aforementioned Secretary present, after mature and careful consideration, decided to respond: Affirmative, according to the decree in the Order of Ca-

[*Latin ed. p. 217*]

APPENDIX III. In the Province of Puccinorum, Lyons, on March 21, 1711, it was decreed, and it was ordered to be observed on September 2, 1871. CARPEN. The Reverend Joseph Maria Meletti, Canon, Prefect of the Sacristy of the Cathedral Church of Carpen, presented to the Congregation of Sacred Rites a custom that had arisen in the same Cathedral during Pontifical Masses, namely, that the Canon Deacon, after the Offertory, should incense not only the other Canons, but also the Mansionaries, and that the assisting Priest, bringing peace, should offer it to the Canons and then to the Mansionaries. Since these practices appear to be contrary to § 24 of chapter 23 and § 7 of chapter 21 of the first book of the Ceremonial of Bishops; he humbly requested the same Holy Congregation: Whether, from now on, the Canon Deacon should incense the Mansionaries, and whether the assisting Priest should offer peace to them; or whether these things should rather be performed by a Ceremonial. The same Holy Congregation, after hearing the report of the undersigned Secretary, and also the opinion in writing of another of the Masters of the Apostolic Ceremonies, decided to respond: The Ceremonial of Bishops should be observed. And it was decreed and ordered to be observed on March 2, 1872. CADURCEN. The Most Reverend Lord, the present Bishop of Cadurcen, earnestly requested the solution of the following doubts from the Congregation of Sacred Rites: DOUBT I. Can a Bishop, the Orator assisting at the Office, wearing a cope, and usually in his own seat, without a stall, have his own Canons assisting? DOUBT II. Can Benedictions be imparted? The same Holy Congregation,

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after hearing the report of the undersigned Secretary, responded as follows: To I. The Ceremonial of Bishops should be observed, that is to say, a Bishop assisting with a cope cannot have his own Canons assisting, unless otherwise, according to the unchangeable custom in the Diocese. To II. If the Bishop intones the Office, beginning with "Dominus labia mea," then absolutions and Benedictions should be imparted; otherwise, if he only assists at the Divine Offices. March 2, 1872. PISANA. It was reported to the Congregation of Sacred Rites by the undersigned Secretary, at the urgent request of the Reverend Chapter of the Primatial Church of Pisa, which, with earnest prayers, requested that the Most Reverend Lord Paul Micale, the present Primate, although having entered the Order of the Eremites of Saint Augustine, be granted the power to perform sacred functions by wearing the red cope with ermine fur, as a privilege enjoyed by the Primates of Pisa; the same Holy Congregation responded to the Lord Secretary with the Most Holy Father: On March 2, 1872. Regarding the aforementioned, the Most Holy Father, through the report of the undersigned Secretary, Most Holy Father Pius IX, graciously approved of the request; provided, however, that the red cope is not made of silk, but of wool.

[*Latin ed. p. 218*]

APPENDIX III. 218. Contrary to the wishes of some, it was ordered that the practice be restored. On the 7th of the same month and year, the aforementioned Orator requested from the Sacred Congregation: Whether the use of ASCULAN and CERINOLIAN cloth, of white color, can be permitted, lest disturbances arise among the people, or whether, at the very least, it would suffice to superimpose a large black cross on a white cloth, so that any observer might readily discern whether the area of the funeral pall is properly within the jurisdiction of the Ordinary. The Sacred Congregation, however, declared that, having heard the vote of the Most Reverend Assessor of the Congregation itself, and considering other matters presented, it was permissible to allow a black band to be placed on a white cloth, not, however, in the form of a cross, but so that it should appear on all four sides, so that the faithful might know that the deceased needs their prayers, and that they should also add the prayers of the Church to those offered. On August 31, 1872. BARCHINONEN. ALBEN. PROVINCE OF PIEDMONT. The Most Reverend Monsignor Eugenius Galletti, Bishop of Alben, reported that in his diocese, it is customary to cover the coffin in which the body of an unmarried girl or boy is placed, with a white cloth made of wool or silk, as a sign of virginity. Since this practice, being contrary to the rubrics and decrees, had caused disagreement with some of the pastors of the churches, and he learned from their testimony that this custom could not be easily changed, and that disturbances and unrest were to be feared, he reported this. (1) In the parishes of the Diocese of Barchinonen, some beneficed priests state that in these parishes, there have

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existed since ancient times gatherings of the faithful, as well as the fabricators (commonly called workers) of the respective parish churches, who, possessing neither civil nor ecclesiastical jurisdiction, administer, together with the parish priest, the temporal goods for the preservation, repair, ornamentation, and, in some cases, for the greater solemnity of ecclesiastical functions, and who, as representatives of the faithful of their respective parishes, make the greatest use of the splendor of divine worship. VII, page 83. The Constitution concerning the privileges of Apostolic Protonotaries, which is omitted here.

[*Latin ed. p. 219*]

IX. Members may be of this age, provided that they remain within the bounds of their institution. However, it often happens that, due to certain supposed privileges, disputes arise between the superiors and clergy of such churches, and those attached to those churches; in order that a suitable remedy may be provided, the following questions are submitted to the Sacred Congregation with due humility and reverence:

QUESTION I. May seats of honor be prepared for the superiors of these church sodalities in the sanctuary during the solemn Mass, especially when the Most Holy Sacrament is exposed?

QUESTION II. In processions in which the Most Holy Sacrament is solemnly carried, what place should be given to these superiors, closer to the Most Holy Sacrament, namely immediately after the parochial clergy, or without this preference, before the aforementioned clergy, or rather, after the celebrant and the ministers who follow the Most Holy Sacrament?

QUESTION III. In solemn Masses, should these sodality superiors be thurified by the Deacon, or by the Thurifer?

QUESTION IV. Also, from whom should they receive the Pax, from the Subdeacon, or from another inferior minister, especially since the Most Holy Roman Church, in the Decree of Calagurita, dated July 5, 1614, states that the Deacon should not give the Pax to a layman or to the Lord of the Place, but that it pertains to another minister wearing a cope, and with the instrument, and not with a kiss?

QUESTION V. Is the long and ancient enjoyment of 219 such customs a sufficient reason for continuing them, even though they are contrary to the prescriptions of the Church or the Decrees of the Most Holy Roman Church, especially since it has already been decreed that when the Decrees of the Congregation of Sacred Rites have fallen into disuse or neglect, abuses should be corrected and observance restored to its strict and legitimate form?

The Sacred Congregation, having heard the written opinion of the Reverend Vicar Capitular of Barcelona, and having obtained the information and vote requested, after mature and careful consideration of all matters,

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has decided to respond to the questions as follows:

To Question I: The Ordinary should, as far as possible, use his prudence to persuade those who have seats of this kind in the sanctuary to allow them to be placed outside the sanctuary, like the seats of other superiors. If he cannot achieve this, he should, in the meantime, make no changes in order to avoid greater evils.

To Question II: In processions in which the Most Holy Sacrament is solemnly carried, it is better and more fitting for these sodality superiors to precede the clergy, and no place should be assigned to them after the parochial clergy. However, if the custom prevails that the parish priest and others follow the Divine Sacrament, then a more honorable place should be given to the sodality superiors after the clergy.

To Question III: The sodality superiors who are seated outside the sanctuary should be thurified by the Thurifer, and in no case by the Deacon.

[*Latin ed. p. 220*]

220 APPENDIX III. Concerning the Decree of July 5, 1614, in Calagurita. Regarding V. Negative. And thus it was responded on August 21, 1872. BARCHINONEN. The Reverend Monsignor, the current Vicar Capitular of Barcinona, presented himself to the Sacred Congregation of Rites concerning a practice that has been in force for many years in this Diocese, namely, that in certain cases, the Sacrament of Matrimony is celebrated outside of necessity for one of the contracting parties, and that, indeed, on several occasions, the Ordinary has permitted, for reasons of nobility or other suitable reasons, that this sacrament be administered in *privata* chapels; however, rarely in a *privata* home before an altar erected for this purpose. The Reverend Monsignor Pantaleon Monserrat, the last Bishop, worked greatly to abolish this aforementioned practice, but today, there are still those who, desiring to enter into marriage according to this practice, seek permission from the Ordinary. Therefore, the aforementioned chapel humbly requested a solution from the same Sacred Congregation regarding the following doubts:

DOUBT I. Can the Sacrament of Matrimony be celebrated in a *privata* home before an altar erected specifically for this purpose, outside of the case of a grave infirmity in either of the contracting parties?

DOUBT II. Can the Sacrament of Matrimony be celebrated outside of the aforementioned case, in *privata* chapels in which Mass is celebrated?

DOUBT III. Can the nuptial Mass be celebrated in the aforementioned chapels?

The same Sacred Congregation, having heard the opinion of the Reverend Monsignor, the Assessor of the same Sacred Congregation, and having ratified the proposed doubts, responded as follows:

Regarding I. Provision is made in the following.

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Regarding II. It is most fitting that the Sacrament of Matrimony be celebrated in the presence of the Holy Church, or in a church. However, it is not forbidden for the Ordinaries of places to sometimes permit, if no danger is present and laudable reasons are present, that it be celebrated in *privata* chapels, in which the sacred rites can be performed.

Regarding III. Affirmative, provided the rubrics are observed.

And thus it was responded on August 31, 1872. BERGOMEN. Since the following doubt has been proposed to the Sacred Congregation of Rites by the ecclesiastical authorities of Bergamo, for a suitable solution, namely: Must any rule be observed in the erection of sodalities or congregations of both sexes of the same kind as the Institute?

The same Sacred Congregation responded to the proposed doubt: In this case, the Constitution *Quocumque* promulgated by His Holiness Pope VIII on December 17, of the year 1564, must be strictly observed.

And thus it was responded and ordered to be observed on August 31, 1872. COLLEN. The Reverend Monsignor, the current Bishop of Collen, presented to the Sacred Congregation that, during the Sacred Advent and the Forty Days, in the Cathedral and in certain churches of the Diocese, when the Office of the Time is performed, the custom prevailed of placing candlesticks, especially on the altar, during the functions.

[*Latin ed. p. 221*]

At a certain time, the use of purple-colored vestments, commonly called "calie," was permitted. Although this practice was considered noteworthy, the Bishop of Florence humbly requested an opinion from the Holy Congregation to ensure that the matter was handled prudently: "Can this practice continue in the future?" The Holy Congregation, after considering the matter, decided to respond with a decree in Milan on July 11, 1857, stating: "No." And so, it responded and ordered that it be observed on August 31, 1872.

FLORENCE. Father Charles Chiari, a priest and pastor of the church of the Holy Martyrs Gervasius and Protasius, within the archdiocese of Florence, humbly requested an opinion from the Holy Congregation, with the consent of his Most Reverend Archbishop, regarding the following: "Should the verse 'May their souls, and the souls of all the faithful departed, rest in peace' be said in the funeral rites for multiple deceased persons, except on the day of commemoration of all the faithful departed, after the verse 'May their souls rest in peace'? And if, in many places, a different practice is followed?" The same Holy Congregation decided to respond with an affirmative answer, according to the practice of the city. And so, it responded and ordered that it be observed on August 31, 1872.

GERONA. Gregory Moratinos, Master of Ceremonies in the Cathedral Church of Gerona, in Spain, humbly requested that the Holy Congregation

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of Rites express its opinion on the following doubtful matters:

DOUBT I. According to civil calculation, on the third Sunday of each month, unless it is the first or second Sunday, or a feast of double rank of the first or second class, a solemn votive Mass of the Most Holy Sacrament is celebrated in the Cathedral, after the Conventual Mass and the Non. And after the said votive Mass, a most solemn procession takes place within the church with the Most Holy Sacrament. According to ancient custom, and contrary to the prescriptions in the Roman Missal and Ritual, the sprinkling of holy water takes place immediately after the Non and before the votive Mass. The question is: Should the custom of sprinkling the choir and the people with holy water before the votive Mass continue, or should this sprinkling be done before the Conventual Mass, after the Terce?

DOUBT II. On the same Sundays of the first or second class, or feasts of the first or second class, only the Mass of the Sunday or feast occurring is sung, with the commemoration of the Most Holy Sacrament, and the sprinkling of holy water takes place, and the Mass is sung after the Non. Can this custom be tolerated, or is it preferable that all of these things be done after the Terce?

DOUBT III. Some priests, under the pretext of economy or convenience, and contrary to the prescriptions of many centuries, and contrary to the opinion of men of conspicuous sanctity and doctrine, also use, in the celebration of the Sacrifice, ordinary shoes, commonly called "botines," of black color, and in the hottest summer months, many wear white sandals, but although the length of the priestly garment...

[*Latin ed. p. 222*]

APPENDIX III. Oftentimes, this impedes the incense from being offered; however, opportunities are given, for example, when kneeling and rising to take the sacred ciborium or the ostensorium from the tabernacle and to return it, in which cases it is easily apparent. The question is asked: Can these aforementioned vestments be worn with a safe conscience when performing sacred duties? And, to the extent that the answer is negative, is it obligatory that sandals and shoes be of black color?

DOUBT IV. Both in the Cathedral and in the parishes of the Diocese, the celebrant and the ministers proceed together to celebrate the solemn Mass on feast days, wearing the same color of vestments; since the use of these vestments, which is proper only for Bishops, is contrary to the rubric or practice, which indicates that the celebrant and the ministers who are to celebrate the solemn Mass should exit the sacristy or vestry one after another; it is finally asked: Can this custom be tolerated, or must it be entirely abolished as an abuse? The Sacred Congregation, having heard the written opinion of another from among the Masters of the Apostolic Ceremonies, and having carefully and maturely considered the matter, decided that the sprinkling of the blessed water in the Dominical Masses must be performed

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according to the rubrics of the Missal and the prescription of the Roman Ritual, entirely after the Third Hour before the Conventual Mass; therefore, it cannot be tolerated to transfer this custom after the Ninth Hour before the votive Mass of the Most Holy Sacrament, which is sung in some places by privilege. Furthermore, on Sundays of the 1st and 2nd class, and on feasts of the same class 1st and 2nd, in which votive Masses are excluded, even solemn ones according to the Clementine Code, the prayer for the Most Holy Sacrament should be added if there is a legitimate custom of singing the Mass of Sunday or the Feast after the Ninth Hour because of the procession of the Most Holy Sacrament; then the sprinkling should be performed after the Ninth Hour before the Mass.

Regarding III. Clergy should use sandals or shoes in sacred functions, especially those that are publicly used by approved clergy of the place or Diocese.

Regarding IV. The practice of proceeding to the altar on feast days, especially in the Cathedral of Gerona in Spain, for the solemnly sung Mass, can be tolerated, provided that both the celebrant and his ministers are of the same dignity; as for the use of the veil, the matter was referred to the prudent judgment of the Most Reverend Ordinary of the Diocese, who should take care to eliminate the use of such a veil. And thus it was written on August 31, 1872.

CAESARAUGUSTANA. The Most Reverend D. Emmanuel Garcia Gil, Archbishop of Caesaraugusta, presented the following to the Congregation of Sacred Rites: In the City of Caesaraugusta, there are two notable Cathedrals or metropolitan churches of equal dignity and cult, one under the title of the Most Holy Savior, and the other under the invocation of the Blessed Virgin Mary of Columna, commonly called of Pilar. The anniversary of the dedication of each of these churches is celebrated annually on the twelfth of October. However, since doubts have arisen concerning the consecration of these churches, and...

[*Latin ed. p. 223*]

Various opinions have been expressed concerning this matter, in order to remove all doubt regarding it. Therefore, the aforementioned Reverend Orator proposed the following questions to the Sacred Congregation for consideration:

QUESTION I. The most magnificent Church of the Blessed Virgin Mary of Pilar, which has recently been adorned with splendid decorations, was entirely constructed in the 17th and 18th centuries, and of the ancient building or oratory, nothing remains except the column and the image of the Virgin which stands above it. This Church, however, has only been blessed, and only two altars within it have been consecrated, namely, the Main Altar and the Altar of the Chapel of the Blessed Virgin Mary. Therefore, the following is asked: 1. Should this Church be consecrated, since almost

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nothing of the previous structure remains? 2. And if so, can the consecration proceed by consecrating one of the smaller altars, since the Main Altar has already been consecrated?

QUESTION II. Another Church, called Sancto Salvatore, was properly consecrated. However, in order to complete its reconciliation, because it was defiled in the year 1795 by the culpable shedding of human blood, a priest was delegated without Apostolic permission, and it has been questioned whether it was properly reconciled and whether it requires a new consecration. Furthermore, it should be noted that in this same Church, although successively and at different times, very significant additions were made, in which the walls of the ancient Church were completely demolished and removed. Therefore, the following is asked: 1. Should this Church be consecrated again? 2. And if not, is it at least to be reconciled by a Bishop or by a priest empowered by Apostolic authority?

The Sacred Congregation, having heard the careful explanation transmitted by the Archdiocesan Orator, and also considering the opinion of one of the Masters of the Apostolic Ceremonies, and of the Reverend Assessor of the same Sacred Congregation, after mature deliberation, decided to respond as follows:

Regarding I. The Church of the Blessed Virgin Mary of Pilar requires a new consecration, and this consecration can be completed by consecrating one of the smaller altars in place of the Main Altar, which has already been consecrated.

Regarding II. The Church of Sancto Salvatore has not lost its consecration, nor does it require reconciliation.

And thus, it responded on August 31, 1872.

MISSIONARIORUM SOCIETATIS MARIAE. In the proper calendar approved by the Sacred Congregation of Rites on March 17, 1853, for the Institute of Priests of the Missionary Society of Mary and for the religious women called the Puellarum a Sapientia, the Feast of Saint Stephen, Pope and Martyr, is held on August 9th, with the commemoration of the Vigil of Saint Lawrence the Martyr. Furthermore, this is the assigned Gospel.

[*Latin ed. p. 224*]

224. It is asked, both for the feast day of Saint Stephen and for the vigil, what Gospel should be read at the end of Mass on the feast of Saint Stephen, and what should be done regarding the ninth lesson of Matins? The Sacred Congregation of Rites has responded, by decree dated September 4, 1773: In this case, the Gospel of the vigil should not be read at the end of Mass, since it is the same as the Gospel of the feast; but the ninth lesson of the vigil, which is a homily, should be omitted. Instead, in the Office of Lauds, as well as in the Mass, there should be a commemoration of the vigil with its antiphons, versicles, and prayer. And so it responded and ordered that it be

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observed on August 31, 1872, in Nivernensi. The Reverend Crosnier, Apostolic Protonotary and Vicar General in the Diocese of Nivernensi, having observed certain practices prevailing in the aforementioned diocese which he believes are contrary to the rubrics and the decrees of the Sacred Congregation of Rites, humbly requested a solution to the following questions from the same Sacred Congregation:

QUESTION I. In a church or oratory in which there is no baptismal font, can the ordinary blessing of water on the holy Sabbath be replaced by the solemn blessing assigned to that day in the Missal, performing it between the Exultet and Mass?

QUESTION II. Can this ordinary blessing be performed at any other hour of the same day?

QUESTION III. When the Bishop grants the Papal Blessing, should the canons, even if they are prepared, kneel?

The aforementioned Sacred Congregation, after hearing the opinion of the Reverend I), Assessor of the Sacred Congregation itself, decided that the following should be responded to regarding the proposed questions: To I, negatively, and the rubrics and decrees of the Sacred Congregation should be observed; To II, affirmatively, privately in the sacristy; To III, the custom should be observed. And so it responded and ordered that it be observed on August 31, 1872.

[*Latin ed. p. 225*]

225 BY THE DIVINE PROVIDENCE OF OUR MOST HOLY LORD LEO XIII, POPE. LETTERS ADDRESSED TO THE MOST EMINENT AND REVEREND LORD ANTONINUS, BISHOP OF PRAENESTE, SECRETARY OF STATE OF THE HOLY ROMAN CHURCH, CARDINAL OF LUCCA, PREFECT OF THE SACRED CONGREGATION FOR THE CULT OF STUDIES.

To the Venerable Brother, Our Antoninus, Bishop of Praeneste, His Eminence, Cardinal of Lucca, Prefect of the Sacred Congregation for the Cult of Studies, LEO XIII, Pope, sends greetings and the Apostolic Blessing.

For some time, having considered and experienced it, We have understood that the war being waged against the Church itself and against human society cannot be brought to a more peaceful and happy resolution, with God's help, unless the principles of sound knowledge and action are restored everywhere through philosophical disciplines; therefore, it pertains to the highest good of the whole cause that sound and solid philosophy should flourish everywhere.

For this reason, We recently issued Encyclical Letters to all the Bishops of the Catholic world, in which We showed that the benefits of this kind are not to be sought elsewhere than in Christian philosophy, created and developed by the ancient Fathers of the Church, which not only is most fitting for the Catholic faith, but also provides useful aids for its defense

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and enlightenment.

We recalled that this very philosophy, having produced abundant fruit throughout the ages, was received as a hereditary right by St. Thomas Aquinas, the greatest of the Scholastic Masters; and that in its ordering, illuminating, and enriching, the power and virtue of his mind shone forth so that...

[*Latin ed. p. 226*]

226 It seems that the Angelic Doctor has completely filled the measure of his merits. However, we have urged the Bishops more earnestly to, with our assistance, vigorously attack that ancient philosophy, which has been shaken and is almost collapsing, and to restore it to its former place in the Catholic schools. We have experienced no small joy in this, because our Letters, with the favor of divine grace, have been received everywhere with ready obedience and singular assent. Several letters have been sent to us by Bishops, especially from Italy, from France, from Spain, and from Ireland, either individually or in common from several of the same province or nation, expressing excellent sentiments. Nor has the support of learned men been lacking, freely and reverently given, as distinguished academies and Sacred Ministers have declared their sentiments to us in writing. — In these letters, what is most pleasing is the obedience rendered to our authority and to this Apostolic See; pleasing are the thoughts and judgments expressed by the authors. There is one voice, one sentiment, noted and clearly indicated in our Letters, concerning the root of the present evils, and from where remedies should be sought. All agree that human reason, if it deviates from the authority of divine faith, is exposed to the fluctuations of doubt and the most imminent dangers of error; but these dangers can easily be avoided if men adhere to Catholic philosophy. Therefore, Venerable Brother, it is greatly desired by us that the doctrine of St. Thomas, most closely conformed to the truth of the faith, may first revive in all Catholic academies, and especially in this, the principal city of the Catholic name; which, because it is the seat of the Supreme Pontiff, ought to excel all others in the praise of the best doctrines. — Moreover, it is the case that young men from all parts of the world frequently come to Rome, the center of Catholic unity, and nowhere can they better quench their thirst for pure and uncorrupted wisdom than in the presence of the august Basilica of St. Peter. Therefore, if the Christian philosophy, which we have mentioned, flows abundantly from here, it will not be confined to the boundaries of one city, but will flow to all peoples, like a most abundant river. Therefore, we have first taken care that in the Roman Seminary, in the Gregorian University, in the Urbanian College, and in other colleges still subject to

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our authority, the philosophical discipline be conducted according to...

[*Latin ed. p. 227*]

LETTERS 227 clearly and abundantly present and cultivate the mind and principles of the Angelic Doctor. And we desire that all doctors diligently strive and exert themselves, so that, having carefully gathered the doctrinal riches from the works of the holy Thomas, they may explain them, expand upon them, and impart them to their audience in a pleasing and fruitful manner. But furthermore, in order that these studies may flourish and thrive, it must be ensured that lovers of Scholastic philosophy diligently contribute to its advancement, as much as they can; and especially that they gather together in societies and hold frequent meetings, in which they may bring forth the fruits of their studies, and contribute to the common good. We have wished to communicate these judgments and thoughts to you, Venerable Brother, who presides over the sacred Council, confident that, in the regulation of these disciplines, your industry and prudence will not fail us in this matter.

Indeed, it is not unknown to you that gatherings of learned men, or Academies, have been the most noble of arenas, in which men of keen intellect and outstanding learning diligently exercised themselves for their own benefit, writing and debating on the most important matters, and at the same time instructing young people, with great advancement of knowledge. From this excellent model and institution, illustrious colleges of scholars have arisen, some devoted to several disciplines at once, others to particular ones. Their vibrant fame and glory have endured, and they have flourished everywhere, with the favor of the Roman Pontiffs, as in this our Italy, in Bologna, Padua, Salerno, and elsewhere.

Since, therefore, there has been so much praise and utility in these gatherings of men who come together to cultivate and refine disciplines, and since much of that utility and praise still remains, we are certain that we should use this as a safeguard, as we fully implement our plans.

Therefore, we are the authors of the establishment of an Academic group in the city of Rome, which, distinguished by the name and patronage of St. Thomas of Aquinas, will direct its studies and efforts to explain his works, to illuminate them; to expound his opinions and compare them with the opinions of other philosophers, both ancient and modern; to demonstrate the force and reasons of his judgments; and to strive to spread salutary doctrine, and to apply itself to the refutation of prevailing errors and the illustration of recent discoveries.

Therefore, to you, Venerable Brother, whose virtues of learning we recognize, whose quickness of mind we admire, and whose zeal we appreciate,

[*Latin ed. p. 228*]

228 Concerning all matters pertaining to human affairs, we entrust this

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task to you, so that you may carry out our intention. In the meantime, consider the matter more deeply; and when you have devised a plan that suitably corresponds to our counsels, submit it to us in writing for our examination, so that we may approve it and support it with our authority. Finally, so that the wisdom of the Angelic Doctor may be more widely spread and disseminated, we decree that all of his works be published completely, following the example of our predecessor, St. Pius V, renowned for the glory of his deeds and the sanctity of his life; to whom it happened that, through copies of the works of St. Thomas, ordered to be published by him, great renown was achieved among learned men, and they were sought after with the utmost diligence. But the more rare that edition has become, the more another is desired, one that can be compared in nobility and excellence with the edition of Pius. For other editions, both ancient and modern, are, in part, deficient because they do not contain all of the writings of St. Thomas; in part, because they lack the commentaries of the best of his interpreters and commentators; and in part, because they are not as carefully prepared. However, there is certain hope that this need will be met by a new edition that completely includes all of the writings of the holy Doctor, expressed in the best possible forms of writing, and carefully revised; and that it will also include the works of the most distinguished of his interpreters, such as Cardinal Cajetan and Thomas de Vio, whose writings, like abundant streams, convey the teachings of that great man. Indeed, the magnitude and difficulty of this undertaking are apparent; nevertheless, they do not deter us from approaching it with great eagerness. For we are confident that in this matter, which is of great importance for the common good of the Church, we will receive divine help, and the united effort of bishops, and your prudence and industry, which have long been known to us. In the meantime, as a testament of our special favor, we impart to you our Apostolic blessing. To our Venerable Brother, we impart it from the depths of our heart. Given at Rome, near St. Peter, on the 15th of October, in the year 1879, in the second year of our pontificate. LEO XIII, POPE.

[*Latin ed. p. 229*]

229 FROM THE CONSISTORY ACTS Concerning the Consistory held on September 22, 1879. This morning, the Most Holy Father presented the red biretta to His Eminence Cardinal John Simor, of the title of Saint Bartholomew in the Island, created and publicly proclaimed on December 22, 1873, by the lamented Pope Pius IX, and also to the Most Reverend Cardinals Julian Floriano Desprez, Archbishop of Toulouse; Ludwig Haynald, Archbishop of Kolozsvár; and Ludwig Franciscus Desideratus Eduard Pie, Bishop of Poitiers, created and publicly proclaimed on May 12th by the same Holiness. Then, he proposed the following churches: THE METROPOLITAN CHURCH OF RAVENNA, for the Reverend Father Jacob Cattani, formerly Archpriest of Ancyra, and recently added

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among the Cardinals of the Holy Roman Church. THE EPISCOPAL CHURCH OF COMANA, under the Metropolitan of Melitene, in the infidel territory, for the Reverend Father Alexander Paul Spoglia. THE CATHEDRAL CHURCH OF AMBIANES, for the Reverend Father Amato, Victor, Francis Guibert, formerly Bishop of Gap, by the nomination of the most illustrious man, Julius Grevy, President of the French Republic. THE EPISCOPAL CHURCH OF TEIEN, under the Archbishop of Ephesus, in the infidel territory, for the Reverend Father Thomas Gomes d'Almeida, formerly the Antistite of Angola and Cunga Fíchin; and to appoint the Reverend Father Ayris de Ornellas and Vasconcellos, Archpriest of Goa, as Auxiliary Bishop, to perform pontifical and other pastoral duties, with his consent and willingness, in that city and Archdiocese. THE CATHEDRAL CHURCH OF CHIAPA, in the territory of Mexico, in North America, for the Reverend Father Raymond Maria Moreno and Castañeda, formerly Bishop of Eumenia.

[*Latin ed. p. 230*]

230 FROM THE ACTS OF THE CATHEDRAL CHAPTERS. For the Reverend Father John Baptist Bongiorno, formerly Bishop of Drepanum (Trapani). For the Cathedral of Urgell, for the Reverend Father Salvatore Casañas and Pages, formerly Bishop of Ceramus, transferred for presentation to the Most Serene King of the Catholics. For the Cathedral of Drepanum (Trapani), for the Reverend Father Francis Ragusa, a priest of the Archdiocese of Panormus (Palermo), having completed the sixtieth year of his age, having previously received a doctorate in philosophy, literature, and sacred theology. For the Cathedral of Vapincen (Vipacco), for the Reverend Father Lewis Mary Roche, a priest of the Diocese of Viviers, by the nomination of the most illustrious man, Julius Grevy, President of the French Republic. Born of legitimate and Catholic parents, he has completed the fifty-first year of his age. Having attained the order of the priesthood and having been chosen as a Doctor of Sacred Theology at the Sorbonne, he has, until now, relinquished his position as Professor in the theological faculty at the University of the Sorbonne. For the Cathedral of Angolen and Congen, for the Reverend Father Joseph Sebastian Neto, a priest of the Diocese of Pharaon (Faro), by the presentation of the Most Serene King of Portugal and the Algarves. For the Cathedral of Curia (Coire), for the Reverend Father Francis Constantino Rampi, a priest of the Diocese of Curia, elected by the Chapter and Canons of the Church itself, and confirmed by the benevolence of His Holiness. Furthermore, by papal briefs, the following churches have been provided for: The Archiepiscopal Church of Salamina, in the part of the country among the infidels, for the Reverend Father Wlodimir Czacki, a priest of the united Dioceses of Luceori (Luck) and Zytomyr (Zhytomyr), attached to the domestic prelates of his Holiness, and entrusted with extraordinary affairs of the

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Sacred Congregation. The Cathedral of the Most Holy Assumption of the Virgin in Paraguay, in South America, for the Reverend Father Peter John Aponte, a priest of the Diocese of the Most Holy Assumption of the Virgin in Paraguay. In the place of Villa Rica of the same Diocese, he has served as a parish priest for many years.

[*Latin ed. p. 231*]

From the Consistorial Acts, number 231, including the office of the Vicarious Forane, which has been fulfilled up to the present time. The CATHEDRAL CHURCH of Saint Christopher in Havana, in North America, under the patronage of the Reverend Fathers Raymond Fernandez Piérola and Lopez de Luzuriaga, priests of the Diocese of Pamplona, was presented to the Most Serene King. The EPISCOPAL CHURCH of Gerren, in the infidel territory, under the patronage of the Reverend Father Fidelis Abbati, the retired Bishop of Sanctorien. The EPISCOPAL CHURCH of Ionopolitan, in the infidel territory, under the patronage of the Reverend Father Francis Xavier Leray, transferred from Natchitoches and appointed as coadjutor, with future succession to the Reverend Father Joseph Napoleon Perché, Archbishop of New Orleans. The EPISCOPAL CHURCH of Tiberiades, in the infidel territory, under the patronage of the Reverend Father Martin Marty, of the Order of Saint Benedict, elected as Apostolic Vicar of Dakota in the United States of America. The EPISCOPAL CHURCH of Adranen, in the infidel territory, under the patronage of the Reverend Father Theophilus Andreae Melezan, of the Order of the Oblates of the Immaculate Mary, appointed as coadjutor, with future succession to the Reverend Father Christopher Bongean, Bishop of Meden, in the infidel territory, and Apostolic Vicar of Jafnapatam. Finally, the Reverend Father Peter Loza, Archbishop of Guadalajara in the Mexican region, was appointed as provisional Apostolic Administrator of the inferior Vicariate of California. Then, as is customary, the Most Holy Father addressed the Cardinals Desprez, Haynald, Pie, and Alimonda. And while bestowing the cardinal's ring upon the new Cardinals, His Holiness assigned the title of Saints Peter and Marcellinus to the Most Reverend Cardinal Desprez; the title of Saint Mary of Angels in the Baths to the Most Reverend Cardinal Haynald; the title of Saint Mary of Victory to the Most Reverend Cardinal Pie; and the title of Saint Mary Transpontine to the Most Reverend Cardinal Alimonda.

[*Latin ed. p. 232*]

232 FROM 5. CONGREGATION OF THE COUNCILS OF LINGON and TURON, CONCERNING THE FACULTY OF SAYING TWO MASSES (1). By summary petitions on August 24, 1878. SUMMARY OF FACTS. Many priests in the Diocese of Lingon enjoy the faculty, due to the scarcity of priests and the needs of the people, of saying a second Mass on Sundays and feast days, by order, in certain churches which are called annexed or

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auxiliary chapels. In this situation, the Ordinary, through a humble letter dated March 19, 1878, addressed the Most Holy Prince, explaining that: "from the beginning of the century, the custom prevailed in the Diocese of saying this second Mass even on feast days, formerly celebrated by order, but now suppressed in France; and it cannot be suppressed without causing serious disturbance to the faithful, at least as far as some of these feasts are concerned; which, the Bishop, speaking as an orator, affirms, he has attempted to explain according to the prescriptions of the Holy See." Therefore, he humbly requested the faculty "in the aforementioned churches and chapels, where the second Mass is said by order on Sundays and feast days, also to say Mass on the feasts of the Circumcision of the Lord, the Immaculate Conception, Purification, Annunciation, and Nativity of the Blessed Virgin Mary, on the fourth day of Lent, on the fifth day in the Holy Supper, on the second day after Easter, on the second day after Pentecost, in the general commemoration of the Faithful Departed, and on the feast of St. Stephen," and that "these are the feasts most dear to the faithful among those that have been suppressed," as the Bishop himself stated.

(1) See Volume X, page 230.

[*Latin ed. p. 233*]

LIGONEN. AND TOURS. 233 The Bishop of Tours was transmitting a petition, very similar to this one, concerning the state of the Church, explaining that: Parish priests, who administer two parishes, and who were accustomed to celebrating two Masses on certain feast days, had begun, on those same feast days which are listed in the aforementioned book, to suppress the second Mass after Pentecost, and to replace the feast of St. Stephen with the Nativity of St. John the Baptist. This caused great concern, but the denial of the opportunity to hear Mass on the Feast of the Circumcision of the Lord and on the fifth day of the week in the Octave of the Lord's Supper, especially offended the faithful of vacant parishes: 1. because the Feast of the Circumcision is considered by the faithful as a liturgical feast, on which the first fruits of the year should be consecrated to God; 2. because on the fifth day of the week in the Octave of the Lord's Supper, rural people often come to the altar of the Eucharist, and if Mass were not celebrated in the parish church on that day, they would not be able to fulfill the precept of annual Communion. Therefore, he humbly requested that an indulgence be granted for the celebration of the second Mass on the Feast of the Circumcision and on the fifth day of the week in the Octave of the Lord's Supper.

FROM WHAT IS OPPOSED TO THE PETITION OF THE ORATORS. Whenever the matter of such things, or of the faculty of celebrating two Masses, has been discussed in our annals, we have indicated that, according to the ancient discipline, it was permitted for priests to celebrate more than one Mass on the same day (Thomas, *De Vet. et Nov. Eccles. Disciplina*,

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P. 3, lib. 1, cap. 72, n. 6; Benedict XIV, *De Synod. Dioeces*, lib. 5, cap. 8, §. 8). However, the abuses that had arisen in this most sacred matter suggested that this broad freedom should be restricted in order to curb the avarice of some priests. Therefore, at the Council of Salegstadt, held in the eleventh century, it was decreed "that no priest should presume to celebrate more than three Masses in a day" (Thomas, *loc. cit.*). Indeed, Alexander II, in canon 53, *de consecr.*, Innocent III, in *cap. Consuluisti de celebrat. Miss*, and Honorius III, in *cap. Te referente* of the same title, more strictly forbade this practice, stating that it was no longer permitted, except on the solemnity of the Nativity of the Lord, and in cases of urgent necessity. This pious practice...

[*Latin ed. p. 234*]

234. OF THE LINGONENSES AND TURONENSES. The Church has always taken great care to maintain the strictest observance, punishing transgressors with numerous and very severe penalties (Pigliateli, t. 4, c. 4, n. 3). And although necessity may be an exception, not every necessity is sufficient to allow for a dispensation [from the rule of not celebrating Mass twice; but it must be such a necessity that cannot be remedied in any other way (Benedict XIV, Constitution *Declarasti Nobis*, Sacred Congregation, in the case of Auxitana, SS. LL., 28 March 1853). Given these considerations, it would seem that the petition of the Orators should not be granted; because the necessity cited above, as recounted earlier, is not verified on days that are removed from the liturgical calendar, since the precept of hearing Mass does not apply on those days. Nor is it permissible to invoke a custom of many years, so as to give it the character of prescription; because, although it is prohibited only by ecclesiastical law that a priest celebrate Mass more than once a day, it does not follow that everything that has been established only by the authority of the Church can be considered prescribed. Since this universal discipline was introduced to restrain many and very serious abuses, it would easily happen that, through human malice, these same evils would be constantly repeated in the Church of God, to the great detriment of the faithful and of Religion. Therefore, a custom of this kind, insofar as it is contrary to the universal sanctions of the Church, and undermines the very foundations of ecclesiastical discipline, should rather be called a corruption of the law.

E. REASONS FAVORABLE TO THE ORATORS' PETITION. On the other hand, there are the scarcity of priests and the fear of a serious disturbance. This reason, although it may not appear at first glance to constitute a case of necessity, was excepted from the general rule by Innocent III in his Constitution, and the Doctors, among whom is Benedict XIV, have restored it to the state in which the faithful would lack the Mass unless it were celebrated twice; however, the matter is different if one considers the spirit, rather than the mere wording, of the law. Indeed,

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jurists, in determining the practical application of the aforementioned necessity, seem to have had before their eyes, above all, the spiritual damage that the Christian people would suffer, and also the particular aspects of the Catholic Religion itself; so that this kind of necessity is verified as often as the spiritual good of the faithful is called into question.

[*Latin ed. p. 235*]

LANGRES AND TOURS. 235 Having considered these matters, if the pious desires of the faithful regarding divine worship were frustrated, it would easily happen that the sentiments of piety, which are of the greatest importance in the Christian people, would gradually diminish. Perhaps influenced by these reasons, the Sacred Congregation of Rites, in Argentina, on September 17, 1859, granted the request of the Bishop through a summary process (1). Having noted these things, it was left to the judgment of the Cardinals to decide how the requests of the Bishops of Langres and Tours should be addressed. RESOLUTION. The Sacred Congregation, after deliberation, decided on August 24, 1878, to respond as follows: For the grace requested by the Archbishop of Tours and the Bishop of Langres, for a period of five years, the permission is granted, provided the terms are observed (2). FROM WHICH WE GATHER: I. The repetition of Mass is permitted only in cases of necessity; when, namely, the Christian people, and the Catholic Religion itself, would suffer damage; and such a necessity (1) In former times, the possibility of repeating Mass was rarely sought. But the calamitous events affecting sacred things, arising from the departure of priests and the secularization of the age, in some way compensated for themselves, and the authorities, in order to further inflame the devotion, granted the Bishop the power to allow to Parishes in Spain and Italy, who already possessed the faculty of repeating Mass on festivals and Sundays, to use that faculty; it happened that the rectors, having lost the faculty of repeating Mass on festivals, arrogated to themselves the faculty of repeating Mass on weekdays, not being able to dispense with it; but the answer was easy, because all necessity is absent, when the true reason for the sacred precept is not urged. But when the Bishop intervenes, he informs his faithful of the other (2) From the Constitution of Benedict XIV. Declares that the people should be allowed to celebrate, even on the Circumcision, if they should desire it, and to use the days of festivals, as the Bishop shall determine, whether it is a safer and more certain means of increasing devotion, or whether it is a just reason for granting leave; the days from the list of festivals, which had been removed by the Indult of Cardinal Caprara, are restored; the Most Reverend Fathers, in their Constitutions of Benedict XIV, declared that the piety of the people, who are most willing to turn to the Sacrifice of the Mass, and to observe the just precepts, should be

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encouraged.

[*Latin ed. p. 236*]

236 LIGNONEN and TÜRONEN. It is to be verified how often the spiritual good of the faithful is called into danger. II. Thus, if the good of the faithful does not require it, it suffices for a priest to celebrate one Mass in a day, because Christ, having suffered once, has redeemed the whole world. It is no small thing to celebrate one Mass, and it is very fortunate for him who can celebrate one worthily. Alexander II, Can. 2, concerning consecration, dist. 1. III. The necessity by which the sanction concerning the celebration of only one Mass on any given day may be set aside, must be carefully considered and understood by the Ordinaries, whose conscience is burdened; so that no priest may be permitted to celebrate two Masses, as if it were a privilege, but only for particular reasons, and for a proven necessity (1). (1) We believe it is appropriate to mention that "it is necessary to know and understand this matter, and therefore it is more important for Bishops to consider whether a true necessity exists for a priest to celebrate two Masses." The Archbishop of Cameracensis, explaining the matter, said: "My predecessor, Pope Gregory XVI, having been requested by Cardinal Giraud to deign to sanction, by his Apostolic authority, the faculties granted to certain places, to the people, and due to the scarcity of priests, and therefore a true necessity, as mentioned by the Fathers, concerning which see Benedict XIV, 'Concordat' of the year 1801, 'Const. Declarasti:' to the Bishop of Cameracensis, in the year 1746, and in his work 'De Sacrificio Missae,' lib. 3, cap. 5 and 6. The same Archbishop, however, is strictly burdened by conscience, to celebrate in churches, on different days, the commemorations of all the faithful departed, the Purification of the Blessed Virgin, the greater week, on Saturdays, and on the eve of Pentecost; to the Cardinal, it is generally granted, for particular reasons, and for a necessity examined by himself, who should warn the pastors, to whom he has granted the faculty to celebrate a second Mass on the same day, not to receive alms, with the understanding that this permission is not as a privilege for any priest, but that the Holy See, after having heard from Polidorio, on a Friday, that this matter had been reported to the Most Holy Lord, and that it had pleased the same Holy See to give the same answers to others also, through this Holy See, to all other prelates, that they may freely apply them. The Ordinaries, in accordance with decrees issued to the people, should..."

[*Latin ed. p. 237*]

237 CONCESSION OF PENSIONS. By summary petitions, on September 14, 1878. SUMMARY OF THE CASE. From the most remote times, the Chapter of the benefice had been deprived of beneficed persons, whose places were filled by clerics or presbyters, who, adorned with the title of

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singers or psalmists, could be removed at the will of the Chapter. Just as with true beneficed persons, these singers derived profit from the fruits received, making daily distributions, which they lost in their absence and increased the interest; indeed, after forty years of service, if they were found to be sixty years of age, they enjoyed the concession of a pension granted by the Chapter. From the year 1829, John L. and Anthony A. had been counted among the singers, who, lacking the title of ordination, in order that they might ascend to the sacred orders, the Canons agreed, as was customary in similar cases, that a portion of the fruits assigned to them from the removable chaplains, which would correspond to the synodal tax, would be perpetually added to them for the purpose of obtaining the title of ordination; as indeed happened in reality. In the year 1860, the old order was abolished, and in the aforementioned Church, eighteen chapter benefices and fourteen benefices were created, of which two were granted to the aforementioned singers. Weakened by old age and infirmity, and having rendered more than forty years of laudable service to the Church, both as singers and as beneficed persons, John and Anthony petitioned the Chapter for a concession of a pension. In vain, but truly, since the favorable vote of the Chapter was not lacking, the Bishop intervened, because they had not held benefices during the time required for the granting of the title. Consequently, John and Anthony humbly appealed to the Sacred Congregation, hoping for this grace, for...

[*Latin ed. p. 238*]

238 The granting of jubilees, to which the Prelate does not disdain to add his prayers. The Bishop, when asked, stated: "The practice of granting jubilees to the Chaplains of this Church is ancient; 2 that two such Chaplains possessed a chaplaincy which could be removed at the will of the Chapter, 'but nevertheless, given with full legal force,' was perpetually valid concerning the revenues of the chaplaincy, as far as that part which corresponded to the synodal tax and constituted the title of ordination, and that those Chaplains who held such a title were the orators of whom we are speaking; hence it seems to follow that these Chaplains, although not truly beneficed, were nevertheless not mercenaries, since no agreement existed except for the designation; 3 the Episcopal Curia intervened in these jubilees, since the Chapter was to regulate matters until the year 1860, and after the Chaplains had served the Church for forty years, a simple decree of the Chapter granted the jubilee."

FROM WHAT REQUESTED GRACES ARE OPPOSED. Concerning the denial of this grace, I believe the following should be considered. It cannot be denied that the practice of granting jubilees does not stem from the precept of the sacred canons, but from a special concession of the Apostolic See. Pope Gregory XLI, however, considered this practice not to be commendable, but to be tolerated, as testified by Garcia, *De Beneficiis*, part 8,

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chapter 2, § 1, no. 384. And although it is partly favorable, it is nevertheless odious, as Schmalz observes, *Lib. 1 Decret., lit. 4, § 5, no. 7, because it tends to diminish the divine worship; therefore, it must be interpreted strictly, and not extended beyond the expressly stated cases. Indeed, the practice shows that only those are considered worthy of a jubilee who have not only diligently and laudably fulfilled their choral service for a period of forty years, as stated by the Congregation in Constantinople, May 4, 1737; and by the Briefs of May 12, 1792; September 24, and December 17, 1718; and Ravenna, January 31, 1724; but have also truly performed the same, with a perpetual title stemming from a single benefice. From the decree...

[*Latin ed. p. 239*]

239. Indeed, from the decrees of the Holy Congregation, we learn that after forty years of service, the service rendered during which was praiseworthy, the right to a benefice should be granted; as the Holy Congregation testified in the Council of Trent on January 13, 1603, as Ferraris states in his *Bibliotheca Canonica*, Volume V, Canon Law, Article 9, number 102. Therefore, it is clear how highly the title of cantor, conferred by the Oratory, should be valued, and how difficult it would be to establish a custom that would contradict this. Moreover, it can be said that those who are already advanced in years and afflicted by poor health should be considered, since the Holy Order never grants the benefice if the required conditions are lacking for obtaining the jubilation, but rather provides for an absence *per indultum*, as testified by the decree of Lauretana on December 20, 1806.

FROM WHAT FAVORS THE GRANTED GRACE. On the other hand, it must be considered that, according to an unforgettable custom, all those things can be obtained which are granted by the Prince through privilege and dispensation, as the Rota has decided, in number 393, paragraphs 4 and 5, part 19, as Schmalz states in the aforementioned work, number 3. Therefore, since, according to this unforgettable custom, the dispensation for the jubilation is usually granted by the Chapter after forty years of service and praiseworthy service to the choir, it would seem that nothing prevents this dispensation from being granted to the Oratorians. Especially since, acting in good faith, they have almost tacitly accepted this office, and the purpose intended by the Church for forty years of praiseworthy service has been achieved, and also because they could not be considered as mere mercenaries, since they already possessed a portion of the *praebenda*, tax, or synodical contribution, pertaining to the title. Furthermore, the favorable opinion of both the Chapter and the Bishop is added, and then the advanced age: when one has reached the sixtieth year and the other the seventieth year of their respective ages, and finally, poor health is added: all these things, taken together, certainly suggest to the unfortunate Oratorians that, after so much time spent working praiseworthily in the Church of Christ, it is fitting to be assisted by the grace of the Supreme Prince, and

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that peace and quiet should be granted to them, so that they may spend the days of their lives in peace and tranquility. Having explained these things, it is clear what the law requires, and what the circumstances of the case suggest; it remains for the Most Reverend Fathers to apply their teaching and prudence to this matter.

[*Latin ed. p. 240*]

240. RESOLUTION REGARDING A DISPENSATION. The Sacred Congregation, after careful consideration on September 14, 1878, responded: Considering the particular circumstances present in this case, which pertain to the granting of a dispensation [from the impediment to Holy Orders], the following was decreed:

(1) DISPENSATION FROM IRREGULARITY. On January 25, 1879, a summary of the petition was received from Clement L., of the Diocese of P. Due to a disease contracted, he remained deprived from his early youth of the use of his left hand, so that he could not use it in any way. Nevertheless, despite this defect, in good faith, both by himself and by the Ordinary, he was promoted to the minor and major orders, up to the Diaconate. Now, being thirty years of age and desiring to ascend to the sacred order of the priesthood, and since this is forbidden to him due to, as he explains, an irregularity arising from a bodily defect, he humbly implores the Most Holy Father, through a petition submitted, for absolution from such an irregularity, and for the faculty of receiving the sacred order of the priesthood.

Having received these petitions, a letter was written to Bishop P. on August 27 of the same year, for information and a vote, requesting that, prior to any experiment, he ascertain before the master of ceremonies whether the petitioner is able to properly perform all the actions of the Mass, and whether he has truly been promoted to the orders in good faith, both by the ordaining prelate and by the one being ordained.

Complying with these instructions, the Vicar General, in place of the impeded Bishop, reported that, after an experiment conducted before the master of ceremonies, it was learned that the petitioner is unable to use his index finger, but is able to use his middle finger; that the truth of what was presented by the petitioner was confirmed, and that he recommends that the petitioner obtain the requested dispensation. (!) See Volume IX, page 563, for a note regarding indulgences and whatever pertains to that subject.

[*Latin ed. p. 241*]

DISPENSATION FROM IRREGULARITY: A DIFFICULT MATTER. I. WHAT IS OPPOSED TO THE GRANTING OF A DISPENSATION. The true nature of the irregularity in this case can be easily demonstrated. For it has been clearly shown by experience to the Supreme Pontiffs that those afflicted with bodily infirmities are either unable to minister properly, or are unable to perform their duties without causing scandal,

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or at least causing astonishment, and indecency to the sacred functions; therefore, those same Pontiffs wisely decreed that those afflicted with such infirmities should be excluded. This is derived from the title "De corpor. vitiat," title "De Cleric.," canon 1; and especially from canon "Illitteratos" in Dist. 36: "No one should presume to promote to the orders of the clergy those who are illiterate, or who are maimed or diminished in any part of the body." The primary effect of irregularity, however, is the inability, or impediment, to lawfully receive the first tonsure and the orders; as is deduced from canon "Curandum" in Dist. 34, and the final chapter "De tempor. ordin." Therefore, if someone detained by irregularity were to receive the orders, he would immediately be deprived of the exercise of those orders, and, according to some doctors, among whom are cited the Archdeacon and Maiolus, in "De Irregularitate" book 4, number 2, he would incur a new irregularity, as if he were suspended from exercising the sacred orders. Therefore, since he appears to be detained by a double inability, it would be more difficult to grant a dispensation. Furthermore, in granting it, there would be a serious violation of the rubrics that prescribe that the sacred Host must always be received and broken with the thumb and forefinger. Furthermore, there would be the astonishment of the people, who would easily recognize this defect in the elevation of the heavenly Host. Finally, the matter concerns a promotion, in which case a dispensation is usually more difficult to grant, as is commonly stated in the treasury of resolutions by the Sacred Congregation. II. WHAT IS FAVORABLE TO THE GRANTING OF A DISPENSATION. On the other hand, it must be considered that, although the aforementioned authors teach that an irregular person, by proceeding to receive orders, or by exercising the orders, incurs a new irregularity, the common opinion holds the contrary, even if he ministered in the reception of the sacraments, as is stated by Suarez in "De Cens." disp. 42, sect. 3, number 3; Navarr. cap. 25, number 19; "Acta," Vol. XII, page XXXV, II, 16.

[*Latin ed. p. 242*]

242. DISPENSATION FROM IRREGULARITY. Bonacc. de Irregulant. quaest. 1, punct. 4, no. 4, and many others. Furthermore, I observe that this [matter] should be subject to scrutiny, but nevertheless should contain the reason for the penalty; therefore, it should not be established in a matter in which there is no room for doubt regarding good faith, which would not only present an obstacle to incurring the penalty, but would also entirely suggest granting absolution. With these premises, it seems that a dispensation from irregularity contracted due to a defect of the body should be granted. Indeed, the defect of the index [finger] can be remedied in such a way that the Orator, without irreverence and fear of admiration, can fulfill the sacred office with the same dignity. Therefore, there are not lacking examples of dispensation in similar cases, even in

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more generous instances, granted by the Sacred Congregation of Clerics to clerics who, due to the deficiency of the first and firm use of the index finger of the right hand, had lost the use of that finger, as can be seen in Burdigala. A dispensation from irregularity was granted on January 28, 1865, by the Sacred Congregation, along with other matters recited there. Indeed, on January 6, 1825, a dispensation was denied to a cleric who had lost the entire index finger, as testified by Macerateli. The dispensation of September 17, 1623, is mentioned among the Summaria precum. The age of the afflicted person, to whom further affliction should not be added, and the prayers of the Bishop himself, favoring the Orator's request for this grace, due to the scarcity of priests in that diocese, and because he hoped that the Orator would be of great benefit to his parish, also seem to be of no small importance. Having briefly explained these things, what counsel should be adopted by the Most Reverend Fathers in this matter, at Rheims? The answer was: For the grace, let the word be spoken with the Most Reverend Fathers. (1). (1) See page 28 and following in this Volume XII.

[*Latin ed. p. 243*]

PRIVAS PARISH, December 14, 1878. Father James, the parish priest, was fined six months of imprisonment by the civil court, for the crime of seduction or inducement to give false testimony in a legal proceeding. After serving this sentence, when he wished to return to his own parish, the Episcopal Curia prevented him, and forbade him from doing so under penalty of suspension. For, from the arguments presented in the condemning sentence, it was established that he had induced a female to deny her pregnancy, and that he was the author of the suspicion of the pregnancy of the aforementioned woman. By virtue of this prohibition, the parish priest petitioned for his paternal home; (1) where he took another female servant. SUMMARY OF THE CASE. (1) While the parish priest, obeying the orders of the Ordinary, sought to conceal the crimes for which, if he obeyed the law of Privas, he would be punished, he nevertheless asked the Most Holy Council whether there was any place for him to receive benefits, in his case, given the sanction threatened by the legitimate Trident Council against those who do not reside there. It was declared that it does not inflict, but the judge will inflict it, and it is to be noted that the crimes for which those who hold the care of parishes, where they do not reside, are compelled by the very law, are: 1. Heresy and apostasy from the faith; 2. Simony; 3. Assault and real offense against Cardinals and Bishops; 4. Murder or killing of a person; 5. Procuring an abortion; 6. Forgery or alteration of Apostolic Letters; 7. Duels, whether given in games or solemnly provoked, or provoked privately, or not provoked, and even those not followed by death; 8. Unjust possession of property of the Church or of pious institutions; 9. Those who carry arms, wander about in uncertain places, and are devoted to gambling,

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quarrels, and the occupation of any place. The following are also counted among those who are excluded from the benefits of Cathedrals, collegiate churches, and prebends attached to them or commanded by the founder: 1. Those who give orders to anyone, or who, by another's order, perform acts of murder or mutilation, or who, by another's order, harm another cleric of that church, in which the murderer or mutilator holds a benefice; reference 3. Clergy who use the garments of their order in a manner contrary to decency; reference 4. Concubines, usurers, drunkards, and those devoted to gambling, quarrels, and the occupation of any place. Benedict XIII, in his Apostolic Constitutions, with all the aforementioned words, excludes them from the ministry.

[*Latin ed. p. 244*]

244 The parish, having become pregnant, gave birth in the very house of the parish priest. From this act, rumors and scandals arose among the people; for the author of this pregnancy was considered to be the parish priest himself; who, not at all concerned with his own reputation, kept both the mother and the child in his service. The Ordinary then forbade him even to celebrate the sacred rites, under pain of suspension from divine office, having incurred this penalty by his very actions, for the sake of avoiding scandal. Then he appointed a judge delegate, who, observing the order of law, instituted a summary trial. However, in order to proceed more safely, the Ordinary, three times before the trial, warned the parish priest to dismiss the servant girl; but these warnings being disregarded, and the trial being completed, the judge pronounced sentence. From this sentence, the parish priest was declared to be the author of the pregnancy of his own servant girl and the father of the female child, born to her. From this sentence, at an opportune time, James appealed to the Holy Congregation. The Ordinary also appeared before it, so that, considering either the foundations of the sentence or the persistence of the matter and the gravity of the scandal, it might decide that the parish should be freed from the person who had defiled it.

This matter, said the Ordinary, is desired by the clergy and faithful of that place, who have presented a petition to this end.

*Dispute regarding *subrogatio*. DEFENSE OF THE ORDINARY. The advocate of the Ordinary divided his argument into two parts. In the first part, he demanded confirmation of the sentence, considering both the public reputation and the testimonies of witnesses, which do not allow for any doubt, that the parish priest was the author of the woman's pregnancy. In the second part, he maintained that he should be punished with the penalties prescribed by the sacred canons for concubinage, and especially with the deprivation of his benefice.

Regarding the first part, he said that everyone who, through any excess, is worthy of degradation or deposition, is subject to the sanction of the

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Council of Trent. Therefore, the parish priest, fearing this sanction, petitioned the Holy Congregation whether his involuntary absence could be the cause of the deprivation of the parish, and whether, in this case, the deprivation of the parish could be justified by canon law, at least in a summary manner. But the same Holy Congregation decided to write to the Archbishop. The Archbishop, however, only received the letter.

[*Latin ed. p. 245*]

In the matter of the deprivation of the parish, it is necessary to establish the facts in this case; it is known that the aforementioned individual has wronged another woman, as evidenced by the fact that he led her to give false testimony in court. Thus, honest women have refused to serve him, as witnesses testify; for the public reputation of his pregnant servant had him as its author. And this argument grows even more when the sworn testimonies of some are considered. One asserted that they had seen the parish priest behaving dishonestly with a certain woman; another stated that they had heard from the servant herself that the parish priest was the author of her pregnancy. Furthermore, it is established that he still retains that woman in his service, despite three warnings. All of these things demonstrate that James is the author of the aforementioned pregnancy, and therefore, the sentence of the court should be upheld. The advocate, in the second part of his argument, maintained that the deprivation of the parish should be decreed. From the decree *E K*, chapter 6, concerning the cohabitation of clerics and women, it is stated that if clerics keep women in concubinage "unless they have dismissed them after a second or third warning, threatening to dismiss them altogether, it is permissible to deprive them of their offices or pensions, with a postponed appeal." Also, the Council of Trent, session 21, chapter 6, concerning reforms, mandates that bishops should restrain and punish parish priests who live lewdly and scandalously, and if they persist in their wickedness even after being warned, they should have the power to deprive them of their benefices, according to the constitutions of the sacred canons, with the removal of any exemption or appeal. Relying on these authorities, the advocate concluded that it is possible to proceed with the deprivation of the parish against a parish priest who lives lewdly and scandalously, when it is established through conclusive evidence of the crime and when the canonical form has been followed, as in the case of Gaudensius. Parish, August 24, 1878. § Against. However, from what has been said, it appears that James is guilty of the crime, since he refused to dismiss the woman from his service after three warnings; from this, it is clear that James should be considered among the concubinaries, and he should be punished with the deprivation of the parish. Regarding the matter, Reiffenst., book 3, title 2, concerning the cohabitation of Christians with women, § n. 18: "If a cleric is found to be living with a suspected woman, and..." after three warnings, is found to

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be lying with her or in some other way...

[*Latin ed. p. 246*]

246. THE PARISHIONERS' COMPLAINT: "He has lived in concubinage, a notorious offense according to law and reason, and therefore he must be condemned." To all these legal considerations must be added the prayers of the clergy and the people, who desire the removal of this pastor.

DEFENSE OF THE PASTOR. It can be seen that the argument drawn from reputation cannot undermine the judgment of the court, because: 1. Reputation, in criminal cases, can only serve as a remote indication, not as proof (Lat. *Elem. iuris Crim.*, book 8, title 4, section 4). 2. In the present case, the reputation has not been proven. Indeed, the witness Innocent testifies in Chapter [omitted] that, in order to prove the reputation, the witness must testify about the cause and the persons involved, so that if someone testifies that they have heard something said openly or by many people, it does not prove it (Bai. in *addit. Spec.* in the title on judgments). However, the witnesses in this case testify about public reputation; they say: "Everyone says so..." This opinion is held not only by the common people, but also by honest people, and not by those who are hostile to the pastor. 3. It appears that the reputation arose from the fact that a woman gave birth and remains in the house of James; but it must be known that this happened out of necessity and charity, because the municipality refused to send the pregnant woman to a charitable institution. Therefore, in order to prove the crime, only the testimonies of the witnesses remain; but these must be considered with caution, since they are lacking the confession of the woman herself, who, like someone not ashamed to reveal her own shame, deserves to be rejected (Rota in Cracovien. Parochialis, June 22, 1167, § 6 and following). This is all the more important in a case in which a woman is exceedingly prone to telling lies; as the witnesses induced by James attest. It should also be noted that some of the witnesses harbor animosity towards James; and it is expressly taught that enemies are not to testify against their enemy (/. Test. 3 in *princ. ff. de test.*, Chapter "When it is necessary to accuse," and Chapter "Let us remember to accuse," and generally, the doctors hold this, as is stated by Ferraris in the word "testis," article 1, section 86). Therefore, when the foundation of the judgment rests on the testimonies of witnesses who are either biased or enemies of James...

[*Latin ed. p. 247*]

PRIVATIONIS PAROECIAE 247 The parish priest, or one subjected to contradictions, struggles with the words of the deceitful woman and reveals her shame; therefore, since the foundation is removed, the very judgment must collapse and must be weakened. Now, if one wishes to examine the author of the pregnancy, it is most difficult to find him among the lovers whom the servant girl had discovered; and she herself testified that she had

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relations with two men, without any hope of marriage. With these things presented, the defender argues that little attention should be given to the second doubt, namely, regarding the deprivation [of office], since there is no conclusive proof of the crime. But if even this little is conceded, it does not seem possible to arrive at the deprivation of the parish, because the matter in question is of simple incontinence, without the quality of concubinage. Furthermore, it should not be overlooked that he has been struck with suspension from divine services, and therefore it would seem too harsh to impose another penalty upon him, which is the most serious in the law. Considering these things, the following points were to be resolved: 1. Whether the judgment of the Archbishop U. should be confirmed or weakened in this case. And 2. Whether there is a basis for the deprivation of the parish in this case. RESOLUTION. The Sacred Congregation, after deliberation in Vico Equense, on December 14, 1878, gave the following response: To the first: Provision will be made in the second. To the second: Affirmative, by a declaratory judgment. (1) (1) We indicated in the note on page 243 of this work that there is a difference in effects regarding the first question; there are two species of crimes, and the second is regarding the deprivation of benefits, by which one may be deprived of an ecclesiastical benefit. In the first, we presented those crimes, and it was proven that the crime exists. However, a benefit may be vacant both by law and by practice, through which the benefit is lost by its own nature and by the very fact of the benefit. Regarding the second species, we said that a judge's judgment is required, and these crimes pertain to a declaratory judgment, not a condemnatory one, but only a declaratory judgment. For the judge, being a legitimate judge, does not inflict the penalty, but determines whether it should be inflicted. Now, it also seems appropriate to add that the penalty of suspension does not properly inflict the deprivation, but is a declaratory judgment.

[*Latin ed. p. 248*]

248. THE DEPRIVATION OF A PARISH. From which things, one may gather. I. That concubinaries can be deprived of their benefices by a judicial sentence, no one should doubt; since the Council of Tridentinum decreed: "After having been warned (of such concubinage), they ought to be restrained and punished by the Bishops; and if, even after this, they persevere in their wickedness, they should have the power to deprive them of their benefices..." (Session 21, chapter 6). II. It can appear unfortunate that a parish priest might be included among concubinaries, if he refuses to dismiss the source of scandal, namely, his concubine, after having been warned by the Bishop; who leaves no stone unturned to bring the erring priest back to the path of righteousness (1). This is merely a statement of fact; the beneficiary, namely, is shown to be guilty of the crime for which he is being reprimanded. Indeed, the parish priest was deprived of his

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benefice, either by having been convicted or having confessed, and therefore, in every case, the deprivation of the benefice is induced by the law and by the very fact itself. And therefore, it seems that the Sacred Congregation wished to instruct the Curia, that in the deprivation of a parish, when the judge pronounces a sentence imposing the deprivation of the benefice, it would be better to use a declaratory sentence, which, however, would only declare the deprivation, since it would make use of more evident proofs regarding the crimes by which this deprivation was brought about. It should be noted (1) that the questions related in Volume X, page 143, and in Volume IX, page 29, are recalled; see also the first note on page 35 of the same volume, in which similar questions concerning the deprivation of parishes are discussed. The Sacred Congregation did not intend by the declaratory sentence anything other than to instruct the Curia.

[*Latin ed. p. 249*]

INHIBITIONS. January 25th and February 1st, 1879. In the chapel which was constructed within the walls of the Brothers of Mercy hospital, the Holy Mass had been celebrated from the most remote times, to which outsiders were also accustomed to attend. From time immemorial, in this chapel, on Sundays and feast days, the Holy Sacrifice had been offered by order at the hour of the octave; to which, especially, the inhabitants of the countryside and those of weak health came together, to satisfy the hearing of the Holy Sacrifice, for whom, therefore, the doors of the hospital were opened. Indeed, from that time, three Masses were accustomed to be celebrated in said chapel, two of which, namely at the seventh and octave hours, even with the attendance of outsiders, on feast days, by order. However, in the year 1870, the parish priest, within whose parish the chapel was located, made complaints to the Bishop, because of the lack of the people who did not attend the parochial church, due to the celebration of Mass in said oratory, and who were prevented from hearing the Holy Gospel. The necessity of this Mass was undermined, for which the chaplain had made use of the faculty, because in the neighboring parish, at the same time, the Holy Sacrifice was offered for the inhabitants of the countryside, with a brief exposition of the Holy Gospel. And therefore, the parish priest requested that the Bishop forbid the celebration of the Holy Sacrifice in said chapel at the hour of the octave; and he obtained this through a decree of the Bishop in December 1870. SUMMARY OF THE FACTS. The administrators of the hospital, because of the damage they suffered in annual sums of 700 florins from the rental of seats (2), [refer to what was said regarding sacred functions, Volume XI, pages 595 and following]. This rental, which was somewhat contrary to canon law, replaced the tithes which the faithful formerly paid (2). The performance

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of sacred functions in churches of foreign nations by their own pastors.

[*Latin ed. p. 250*]

250 They petitioned, with entreaties, that the decree be revoked. The Bishop refused, and only permitted that, with the doors closed and for the benefit of those residing there, the Holy Mass might be celebrated at the appointed hour. The Metropolitan, before whom the administrators appealed, confirmed the Bishop's decree; hence, the matter was brought before the Holy See. The Bishop, being asked for his opinion on the matter, stated: "Certainly, the excessive number of Masses celebrated in different chapels causes a grave detriment to souls, and this is something that we cannot deny today." A synodal discussion. THE JURISDICTION OF THE BISHOP. Since the Bishop is, in his diocese, the father of all and the pastor, and to him belongs the principal authority over all matters to be carried out, which he especially exercises in the management of hospitals, colleges, confraternities, and pious places, according to the Council of Trent, Session 7, chapter 15, Session 22, chapter 8, and Session 25, chapter 8, therefore, his decree seems to be one that ought to be upheld. For the authority of the Bishop does not concern merely the preservation of the administration of temporal things, but rather that order and laws be observed, that discipline be promoted, and that charity and piety towards the poor be fostered. However, according to the report of the parish priest, the number of those attending the aforementioned Mass is such that, at that time, the order of the Xenodochium [hospital] is disrupted. Furthermore, it must not be omitted that, unless an Apostolic indult is granted, in order to fulfill the Sunday precept, Mass must be heard either in the Church or in a public oratory. A public oratory is only that which has a public entrance and which is open to all the people. *Devoti Instit.*, Canon. lib. 2, tit. Sect. 3, § 32. The oratory of which we are speaking has no door on the street; therefore, in order that anyone may have access to it, one must enter the hospital. Therefore, since this chapel cannot be considered a public one, the prohibition seems to be one that ought to be confirmed, as it is in conformity with the sacred canons. But can it be objected that chapels erected in seminaries, xenodochia [hospitals], conservatories, and public prisons are to be considered public in law? They are called public in this sense, inasmuch as they are built in a public building, and all those who reside there, and who hear Mass, are of whatever parish and whatever diocese they may be.

[*Latin ed. p. 251*]

INHIBITION: 251 to satisfy; but not in that sense, so that all outsiders who could freely enter the church and participate in the divine service, fulfilling the obligation of hearing the sacred liturgy. But it has been conceded for a time that all those attending Mass in said chapels may fulfill the Church's precept; nevertheless, the decree of the Bishop seems to be to

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be maintained. For Benedict XIV commands the Bishops in Constit. *Etsi minime*, § 14, that with regard to small churches, they should expressly take care that no one celebrate before the parish priest has celebrated Mass, delivered a sermon, and performed the other parts of his office. (1) The praised Pontiff teaches in *Instit.* 44 and *De Synodo Dioec.*, book 12, chapter 7, number 7, that it depends on the prudent judgment of the Bishop to grant the celebration of Mass in public oratories and chapels, without regard for the parochial Mass, according to the diversity of places. This is confirmed by the authority of the Sacred Congregation, to which, in the year 1640, the following question was proposed: "Can a parish priest prohibit the celebration of Mass in a chapel built by a layman on public land before Mass is celebrated in the parochial church?" The response was: "Assuming the legitimate faculty to celebrate in said chapel, it cannot be prohibited by the strictness of the law, but the Bishop can, for the sake of prudence, take care that on feast days Mass is first celebrated in the parochial church," as stated in the book of decrees, page 331. This provision seems to be the best law; for the Council of Trent, Session 24, chapter 4, says: "And the Bishop shall diligently warn the people to attend to the interests of their own parish, so that it may be conveniently done to hear the word of God." But since the word of God, as stated in the same Council, Session 22, chapter 8, is to be announced and explained by the parish priests, either by themselves or by another, during the celebration of Mass, as stated by Benedict XIV in *De Synod. Dioec.*, book 11, chapter 12, number 14, it is clear that it belongs to the Bishop to remove all obstacles that prevent the people, especially in the countryside, from attending Mass in the nearest parochial church. The Sacred Congregation of the Council, which by law prohibits anyone from celebrating Mass before the parochial Mass, today, however, the disposition of Benedict XIV, who in Constit. *Etsi minime*, § 14, prohibited anyone from celebrating before, so that the people, thus gathered, may more easily hear the priest preaching.

[*Latin ed. p. 252*]

252. Restrictions should not unduly distance people from the parish church, as rightly observed by Petra in *Constit. Paschalis*, 2 volumes, page 390, number 69, and by Moncelli in his formulary, volume 2, page 52, number 42. However, in this case, the people, seeking the assistance of a chaplain in the hospital, were not hearing the word of God from the parish priest.

RIGHTS OF HOSPITAL PATIENTS. It should be noted that chapels erected in hospitals are considered public; Traisson, *Manual of Canon Law*, volume 3, page 69, states that "all oratories blessed and intended for sacred use are public, if they have an entrance on a public street... as well as oratories in royal residences, and in other communities... hospitals, prisons." This is indeed true, as testified by the Sacred Congregation,

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which declared that such oratories are not subject to the prohibition of celebrating Mass in private oratories, as can be seen in Vigliani, *Oratorii*, 1847, and in the document from Grosseto, dated May 16, 1778, Fagnan, *Decreta*, number 23. Therefore, according to Traisson, *loc. cit.*, "it is permitted to every priest to celebrate Mass" in these places, "and to all the faithful to hear Mass," even on solemn days of the year. This is further confirmed by the decree from Grosseto, § 2, which states that "in public oratories, in places firmly dedicated to God, in chapels of hospitals, no one should be prevented from fulfilling the obligation of hearing Mass," as stated in the commentary by Em. Petra on *Constit. 8 Honorii 3*, number 50.

Furthermore, it cannot be denied that the chaplain we are discussing is not in a public place, since he lacks an entrance on a public street. However, the authors do not speak of this requirement as being necessary to declare an oratory in a hospital as public, nor is it the only requirement that distinguishes a private oratory from a public one. Nevertheless, it must be noted that a chapel is found in the hospital, and that there is an ancient custom that teaches us, without anyone objecting, that the people have always gone there to hear the sacred services. Since it is certain that the faithful, by the universal custom of the Church, can fulfill the precept of hearing Mass anywhere, whether in a church or in a public oratory, as stated in Benedict XIV, *De Synod. Dioec.*, book 11, chapter 14, number 16, and by Barbosa, *De Paroch.*, part 1, chapter 11, number 18, therefore...

[*Latin ed. p. 253*]

INHIBITION. 253: It is maintained that the Bishop could in no way prohibit Masses in public oratories, in order that he might compel the people to attend the parochial Mass. For this would be indirectly to abolish a universal custom, which, since it prevails throughout the world, has already acquired the nature of common law. Thus, Benedict XIV, *De Synod. Dioec.*, book 11, chapter 14, paragraph 10, states that it cannot in any way be abolished by the Bishop. Nor does the Holy Congregation of the Council seem to judge otherwise, as is evident from several decisions cited in Ariminen, *Iurium Parodi*, April 18, 1122. The difficulty is equally not caused by the absence of the people, who do not come to the parochial church because of the celebration of Mass in the oratory; and it appears that the absence of the people has been disregarded on several occasions by the Holy Congregation of the Council, especially in Theatina, June 19, 1690; Forolivien, January 16, 1694; and Fulginata, July 7, 1696. And this is so in law; but in fact, it seems that something else was at stake, namely, the cause of God and the good of souls, which prompted the parish priest to demand the aforementioned prohibition. With these premises established, the question to be resolved is whether the decree of Bishop G. should be confirmed or annulled in this case.

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RESOLUTION: The Sacred Congregation of the Council, after considering the matter, responded on January 25th: It is to be reconsidered. And on February 15, 1879, it was decided: Considering the particular circumstances, affirmatively regarding the first part, negatively regarding the second.

FROM WHICH YOU MAY GATHER:

I. That Bishops, according to the Council of Trident, must not only administer temporal affairs in hospitals, colleges, and other pious institutions, but above all, must ensure that order and laws are observed, discipline is promoted, and charity and piety towards the poor are fostered.

II. That the celebration of Mass in the chapel of the hospital at the eighth hour was seen as a cause to prevent more faithful from attending.

[*Latin ed. p. 254*]

254. By this inhibition, the nourishment of the word of God would be restored, and the order of the Hospitallers would be disturbed by the immense number of people gathering to hear the sacred rites there.

III. Oratories and chapels erected in the houses of hospitals, orphanages, and prisons are to be considered as public places, and are in no way subject to the decree of Trent, which only applies to oratories erected in private houses.

IV. It is permissible for anyone to attend the sacred mysteries in any church, provided that the chapel or oratory is not private, because the precept of attending the parochial Mass has been abrogated, contrary to a custom received throughout the world.

V. By virtue of this general custom, it is not permissible for Ordinaries to order their subjects to attend the parochial Mass; for since this custom prevails throughout the world, it takes on the nature of common law, against which nothing can be done by the Bishop.

VI. However, it is left to the prudent judgment of the Bishops, in a synod or otherwise, to prohibit the celebration of Mass in public oratories and chapels before the parochial Mass, and since the Bishops are pastors of the Christian faithful, they are bound to remove all obstacles that prevent their flock from receiving the nourishment of the word of God.

VII. Since the faithful cannot be compelled to visit the parochial churches, but they must be encouraged; therefore, the Bishops should not abolish the general custom, but rather, while removing obstacles, they should appear to follow more closely the spirit of Trent by exhorting the same people to frequently visit their parishes, at least on Sundays and

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major feasts.

[*Latin ed. p. 255*]

2SB EX 8. CONGREGATIONE RITUUM MARIANOPOLITANA: Synopsis vitae Servae Dei Bourgeoys, Fundatricis Sororum Dominae Congregationis Nostrae, in occasione Beatificationis et Canonizationis Margaratae.

Serva Dei, nata ab honestis et piis parentibus, Abrahamo Bourgeoys et Wiilelma Garnier, in lucera, die 17 Aprilis anno Domini 1620, in civitate Trecensi in Gallia. Eorum cura, ipsa die nativitatis, fuit abluta per Sacramenta Baptismatis, et data est ei nomen Margarita; et, in tempore opportuno, uncta est Sacro Chrismo. Decennia cum esset, ad Mensam Eucharisticam accessit. Anno post, postquam mater obiit, et cum iam prudentia in ea conspicua esset, a patre, cum familiae curandae praeposita, ita facta est. Qualis esset futura, ab ipsa aetate patefecit, puellas congregando in loca remota, et eas ad pietatem instituendo. Postquam pietatis studio se dedit, vanitati aliquandiu indulsit, donec, cum vigesimum annum agens esset, viso simulacro B. Mariae circumfuso insolita luce, statim et perfecte resipuit. Subinde Congregationi Sororum a Domina Nostra in civitate Trecensi degentium se adiunxit; et in ea ita se gessit, ut consensu omnium Sodalium, Praeses renuntiata esset. Hoc officium magna cum laude duodecim annos exercuit. Desiderans Institutum austerius, consulto animae suae Moderatore, petiit admitti inter Moniales, ex ordine vel Karmelitarum vel S. Clarae. Deo sic disponente, admissa non fuit: tamen, voto castitatis et paupertatis se obstrinxit, Confessario approbante.

[*Latin ed. p. 256*]

256 In MARIANOPOLITANA, seeing Margaret called to the education of young girls, she, along with two other women, founded a new Congregation in honor of the Mother of God. Thus, Margaret, along with two companions, undertook the task of establishing a school for girls. However, the Congregation, as it was constituted, did not prosper. It diligently and faithfully served its patrons. In her native city, she met a pious man who was working diligently for the foundation of the city of Marianopolis and for the spread of the Faith throughout the Canadian region. Moved by a zeal for the salvation of souls, Margaret decided to migrate to the Canadian region, provided that her superior did not object. The confessor gave his consent. The Mother of God appeared to Margaret shortly before her departure, and spoke to her. Having sent word to dispose of all her possessions, she prepared for her journey. As soon as her intentions became known, she encountered many difficulties; however, a most devoted member of the Society of Jesus encouraged her in her purpose. Thus, she crossed over to America. Upon arriving in Marianopolis, a city in the Canadian region, she devoted herself to the Christian education of young girls, and also founded a Sodality of young women, which still exists today.

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To find companions who would assist her, she returned to Gallia. Upon returning to Marianopolis, for the glory of God and the salvation of souls, she established a Congregation, whose primary purpose is the education of young girls; and it has grown and spread so much that today, fourteen thousand girls are instructed by its members in virtuous conduct. At the request of the Bishop of Quebecensis, she opened schools in his diocese. In the year 1669, she returned to Gallia again, where, three years later, she received a patent from King Aloisio XIV for her Institute. The Bishop of Quebecensis founded the Congregation in the year 1676, and in the year 1698, he approved its rules. Following this approval, the vows were taken, first by the Serva Dei herself, and then by the individual members, before the Bishop of Quebecensis. At the age of seventy-three, she requested to be relieved of her duties as Superior of the Congregation, and her request was granted. Nevertheless, with the permission granted to her, she diligently devoted herself to the work of the Sacred Missions until her death. The Serva Dei was distinguished by Christian virtues. She was distinguished by a living, firm, and active faith. Therefore, her feast day is celebrated annually.

[*Latin ed. p. 257*]

MARIANOPOLITANA 257, having been cleansed by that most sacred Baptism; hence, the most profound devotion to the divine mysteries; prompt and complete adherence to the Dogma of the Holy Catholic Church; singular piety towards the Sacrament, the Blessed Virgin, the Angels and Saints, obedience to the Roman Pontiff and Bishops; the most diligent observance of the precepts of the Church; a desire to foster this virtue in her companions, especially instructing young women; an unquenchable desire to dedicate her life to this cause, and to spread it throughout the world, for which purpose she founded a Congregation. She excelled in hope, by which, guided, she directed all her desires towards eternal goods; she always hoped in God and in His mercy; trusting in the one God, she undertook arduous tasks; in all adversities, and especially in those that seemed hopeless, she never lost heart; on the contrary, she became more and more steadfast; nor did she act differently in the poverty of the Congregation, in any temporal necessity, in spiritual aridity, or in mental anguish. She began to impart this virtue of hope to others. Burning with charity towards God, she sought His love and glory in every action. She constantly and intensely strived to instill this kind of charity into the hearts of her companions and others. She took the utmost care not to offend God. When she partook of the angelic bread, her face shone wonderfully. She venerated the Sacrament with remarkable piety, as well as the Passion of Jesus, in whose Heart's honor she erected a chapel. For her charity towards her neighbor, she brought the poor to the Christian religion, with a truly singular care; she freed a girl from the hands of

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wicked men, despite the mortal threats of those men. She distributed all that she had to the needy; she devoted herself with the utmost care to those infected with the pestilential disease; she was a great comfort to the sick and afflicted; in order to save the life of another of her companions, she offered her own life to God, and shortly afterwards, she died as a victim. From her earliest youth, she was concerned with the Christian instruction of others; she repaid injuries with benefits; she loved her enemies, and encouraged others to do the same; she visited the homes of the Canadian colonists daily, carefully attending to their spiritual and temporal needs. Atta, vol. XII, page XXXVII, 17.

[*Latin ed. p. 258*]

258 In MARIANOPOLITANA, fundavit unum Institutum pro religione. Motus hac charitate, sepelibat cadavera pauperum; hortabatur sodales ut nullus proximus, nequaquam, in minimis quidem, laederetur. Ut pro salute animarum Missiones instituuntur, operam impensissimam dedit. Charitatem exercuit, nulla facta distinctione personarum. Pro bono proximorum, et praesertim puellarum sylvestritarum, gravissimos labores exantlavit, et periculis se obiecit. De proximo numquam male locuta fuit. Hanc charitatem in proximum, in omnium animos insinuare coepit. Tanta fuit prudentia, ut in singulis actionibus a Spiritu Sancto ducta esse vulgo putaretur. Mira eius prudentia elucet in Regulis, quas pro sua Congregatione exaravit, quaeque Episcoporum et Summi Pontificis Romani amplissimas laudes promeruerunt. Pariter elucet in electione eorum, quae tum ad consequendam aeternam beatitudinem, tum ad fundandum Institutum a Domina Nostra adhibuit. Ex hac virtute fiebat ut nihil unquam ageret sine Superiorum venia, et nisi consultis viris piis, eisque cordatissimis. Iustitiae amantissima, omnia eius officia diligentissime implevit, tum erga Deum, tum erga homines, reddens cuique suum, et praeter divina mandata evangelica, quoque consilia servavit. Hac virtute ducta, a partium studio semper cavit et abhorruit. Fortitudine ornata, contradictiones, opprobria, contemptus, spiritus angores, morbos, incommoda, ac pericula itinerum, animo iugiter forti sustinuit. Pari fortitudine, obstacula fundationi suae Congregationis obiecta superavit. Temperantiae studiosissima, cohibuit quoscumque animi motus; cibo viliore, eodemque pareissimo usa fuit, somno nisi brevi unquam indulsit; corpus praeterea ciliciis et flagellis afflictavit. Ad votorum observantiam, castitatem ac paupertatem, queis usque a prima iuventute se obstrinxit, exacte servavit; exacte porro obedientiam praestitit, non modo Superioribus, verum dimisso Antistitae officio, etiam suis Sodalibus. Huiusmodi observantiae amorem, nunquam destitit. Humilitatem eminenter coluit; quippe quae de se loquens, semper dixit nihil aliud esse quam peccatricem; laudes atque honores omnino fastidivit;

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abdicato Antistitae officio, se suis Sodalibus.

[*Latin ed. p. 259*]

MARIANOPOLITANA: She humbly subjected herself to everything; she preferred to perform the most menial tasks, finding delight in them; she always attributed any misfortunes that befell the Community to herself; she made herself the most humble of all, and she devoted herself entirely to encouraging this virtue in others. She was endowed with heavenly gifts. Jesus, both as a child and in the Blessed Sacrament, and the most Holy Virgin appeared to her many times. She was endowed with the virtue of drawing souls to God and of consoling the afflicted. She proved herself wonderfully capable in guiding souls. She was endowed with the gift of prophecy, of discerning hearts, of distinguishing spirits, of counsel, and of wisdom. Furthermore, while she was alive, she shone forth with miracles and graces. Indeed, she multiplied the provisions of the Community in times of extreme need; she obtained the help of God in her own difficulties. Through her prayers, one of the members, who was suffering from a very serious illness, was perfectly healed, and another, who was in imminent danger of death, was delivered. She restored a ship, in which she was traveling with her companions to Marianopoli, to safety from the enemy. From all these things, it followed that she acquired a universal reputation for holiness while she was still living. In Marianopoli, she was struck by a violent fever and pains, and twelve days later, having received the Sacraments of the Church, she fell asleep in the Lord in the year 1700, at the age of eighty. Immediately after she breathed her last, an unusual and most wondrous light appeared on her face. After the funeral, to which countless faithful attended with singular demonstrations of piety, her body was buried in the parish church. The universal reputation for holiness that Margaret had acquired while she was alive continued and grew more and more with each passing day after her death. Furthermore, miracles, which God wrought, at her request, also contributed to this posthumous fame. And indeed, through the intercession of Margaret, some were healed from epilepsy, some from paralysis, and others from phlebitis and other very serious illnesses. Among the miracles that have been brought forth to illustrate her holiness, the following is also enumerated. In the sixty-eighth year after her death, when the reliquary, in which her heart was enclosed, was being burned by fire, a bright red blood flowed forth from the heart, which was carefully collected and is still preserved.

[*Latin ed. p. 260*]

260 MARIANOPOLITANA. The city of Marianopolitan was built. According to the established procedure, after considering the matters which we have previously mentioned, namely, the reputation for sanctity of life, virtues, and miracles of this Handmaid of God, and after this having been

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reported to Rome and presented in the records of the Sacred Congregation of Rites, with the proceedings remaining open for consideration; after the summary and information were completed, this cause was begun. A Synopsis of the Discussion. The Promoter of the Faith, with regard to the form of the process, notes nothing worthy of censure. However, with regard to the substance, he observes the following: 1. That in the process, only a portion of the life of the Handmaid of God of Marianopolitan is presented, while the portion she lived for thirty-three years in Gallus, and for the most part in the city of Trecensi, is only lightly touched upon, or not touched upon at all, by the witnesses. 2. That the manuscript documents pertaining to the life of the Handmaid of God, which were appended to the process, were not examined in accordance with the established procedure, according to which (Benedict XIV, *lib.* III, cap. 9, n. 1) "this type of document, before being appended to the process, must be subjected to examination by experts... the recognition of the characters, so that the time at which the author wrote may be determined, and the contents must be carefully scrutinized, so that it may be ascertained whether the work is of sufficient authority, whether it is genuine, or apocryphal, or interpolated." 3. That more important and significant historical documents are lacking in the records, and that the names of the authors of these documents are cited by the witnesses. It cannot be said that this deficiency has been adequately remedied either by the tradition of documents which the Postulator presented in Session 48, or by the presentation of a certain anonymous manuscript; because not all of the documents requested were presented and included, and indeed, those of many authors, whom the witnesses themselves name, are lacking. Although the Postulator indicates in the index of documents which he presented, a work by the author Ransonnet, and another without the author's name, he did not present the former, and the latter has nothing in common with the others. 4. Whether the manuscript attributed to Glandelet belongs to him or not, the matter is uncertain: for the letter "G," with which certain letters in the manuscript are marked, is a slight indication for determining the author, and the indication is all the more slight, OBSERVATIONS OF THE PROMOTER OF THE FAITH. b.

[*Latin ed. p. 261*]

In MONTREAL, 261, it is stated that when the Witness, I, said: "I have it on good authority that another account of the life of the Servant of God, prepared by the Reverend Monsieur Glandelet, exists... and that a work, which is also in the Archives of our Congregation at Mont Royal, was written only fifteen years after the death of the Servant of God," it is easily understood that "the account of the life of the Servant of God written by the Reverend Monsieur Glandelet, and the work which is also in the Archives" are two different things. 5° Therefore, there are three sources of proof: witnesses, the writings of the Servant of God, and extrajudicial documents. These

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latter, it is said, have already excluded [the possibility of certain claims]. Regarding the aforementioned sources of proof, it is noted that the witnesses in this process of the Third Order are only suitable as subsidiary proof, since they were examined a century after the death of the Servant of God; and that the writings of the same Servant of God, inserted into the process, are to be considered with a higher degree of probative value. Hence, both types of proof suffer from such weaknesses that this cause will never enjoy, in the future, the full benefit of the Benedictine decree of the year 1741, especially with regard to the type of subsidiary proof, as is the case in this very cause, where oral tradition must be proven with legal rigor. It should not be said that this is opposed when it is a matter of virtues; rather, it is a matter of the fame of sanctity and miracles; for the practice of the Sacred Congregation requires "that the Petitioners fully and conclusively prove in their writings and summary the fame of virtues and miracles," which in our case is done by demonstrating that it has endured constantly and has become more vivid with each passing day, and this from tradition, not from the writings of the Servant of God, which cannot in any way refer to that same fame. Finally, with regard to historical accounts, these do not constitute perfect or adequate proof of this fame, but are merely pure auxiliary evidence (Benedict XIV, Book II, Chapter 40, paragraph 1). 6. The fame of sanctity, which consists in the common opinion of purity and integrity of life and of heroic virtues, does not correspond to the estimation with which the Servant of God is said to have flourished, especially due to the institution for boys and girls. For, the Canadian region, engaged in this institution, came from an agreement that was initiated in France with the Prefect of MONTREAL, known as Maisonneuve; so that it appears that only a civil contract existed between the two, and it is not probable...

[*Latin ed. p. 262*]

262 It appears that in MARIANOPOLITANA, a Congregation of Sisters of Our Lady arose through divine vocation, because its Author of Life says, "She herself, through a certain means, went to the Canadian region, where she did not at all intend to establish a community." This estimation or reputation persisted among the public officials of Galliae, who, above all others, referred the Servant of God's actions to political advantages, and among the Sisters of the Congregation which She herself founded, against this same Servant of God in the city of Trecensi, where she resided for thirty years and more, and in other places in Galliae, where she lived for a long time, she was almost unknown. Therefore, since it derives more from civil merits than from anything else, and has not extended further than has been said, and it is not yet established that it has endured and grown more and more, it does not possess that character which is proper to a genuine reputation, which is sought here.

7 Finally, concerning the obstacles which, according to her opinion, de-

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stroy this cause at the very beginning, the following facts are recounted: 1° Several things are hidden about the first years of the Servant of God; however, it is known that she was prone to feminine levity, that she was excessively adorned as a woman, and that she abhorred religious enclosure so much that she refused to enter a pious secular association, which was already then part of the Congregation of Sisters of Our Lady, founded by Father Peter Fourier, so that she would not be considered a hypocrite. 2° She gave a bad impression to the Carmelite nuns and to those of sanctae Clarae, so that they did not receive her among themselves. 3° She neglected the care of the younger sisters and brothers, as ordered by the Father, after their mother's death, when she joined the Congregation which the Lord Landret vainly attempted to found. 4° She agreed with the Lord Maisonneuve to open a school for girls in Marianopolitana, and, with the invitation of relatives, as well as of the most devoted men and women, she went to America with him, leaving behind a small brother and a small sister, since their father had already died. It is not established that she undertook this very serious work solely through divine inspiration, that she was abandoned by all, that she undertook the most difficult journey, relying only on one and unknown man, without having any reason, nor any consideration for dangers, for decorum, or for modesty; then, in ships among the crowds of soldiers and sailors, and in inns; nor the suspicions of wickedness which were cast upon her during the journey itself, and for which she was rejected on several occasions.

[*Latin ed. p. 263*]

263, whether from diversions or from private houses, and having been subjected to insults. 5° Having arrived in Marianopolitana, not for the foundation of her institute, but for the care of the sick, the consolation of the afflicted, etc., she resided there for four years, and therefore did everything except what pertained to the foundation of the Congregation; moreover, she acted so imprudently in undertaking this foundation that she was forced to return to Gallia; there, having gathered companions, and returning to Marianopolitana, she finally, at some point, established the semblance of an institute. 6° She refused to obey the Bishop in the following matters: 1° When, in the third year after the foundation of the house of the Sisters, the Congregation seemed to be in a precarious situation, because the house was consumed by fire, "Bishop Laval actually proposed to Sister Bourgeoys that she unite herself with the Ursulines of the city of Quebecensis"; but the tenacious woman did not cease, and taking the initiative, she presented to the Bishop the idea that the good which God seemed to have inspired in her was not compatible with the cloistered life. 2° When she was preparing for her third journey to Gallia to obtain the approval of the rules of her Institute, and having gathered new companions for this purpose, the Bishop of Quebecensis said, as the Servant of God herself confesses,

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that she had acted badly in undertaking the journey for the sake of the Rules, and that he did not see it as appropriate to send the daughters who could be of help in the city of Montis Regalis. Again, when she boarded a ship in the city of Rupellensi with several distinguished daughters destined for a colony. 3° When the matter of the approval of the rules was being discussed: His Eminence presented to the community the rules, completely prepared, including those of the Regular Canonesses of Sancti Augustini, and of those of the Ursulines, etc., and the instruction of children, as prescribed to the Ursulines; and finally, a special vow of obedience to him. The nuns resisted, and the Bishop, who wished to leave for Gallia, said, offended by this, that, since he was their Bishop, he did not need their consent or acceptance; that he could compel them. 4° Finally: when the matter of taking the enclosure for the aforementioned Congregation was being urged, she replied: "Enclosure is truly the preservation of our sex, but we can have a protector, greater than that, who was the type of purity?" Hence, all witnesses unjustly extol her obedience to the Bishop.

[*Latin ed. p. 264*]

264 In MARIANOPOLITANA, the witness V affirms that she had always been obedient to her, submitting herself like a girl to all her orders. Furthermore, she observed that for four years, the Servant of God had suffered great anxieties, especially when the Servant of God ceased from her office as Superior, falling into the deepest sorrow, and with these anxieties raging: "she considered herself to be reprobate, and neither prayers, nor meditations, nor Communions, nor the words of God, could soothe and strengthen her troubled soul; she believed herself to be subject to damnation." Therefore, she concludes, saying: "Do you consider her worthy, who seems to be presented as a perfect example of obedience and fortitude to all the faithful?"

RESPONSES OF THE ADVOCATE TO THE POINTS RAISED. The Patron of the Cause refutes the aforementioned objections with the following reasoning:

1. Regarding the adolescence and youth of the Servant of God spent in the city of Trecensi, and her reputation in that city, witnesses examined in the Marianopolitan process have testified, based on tradition, whether oral or written, received in the French or Canadian region, many and excellent things. It should be noted that she spent the greater part of her life in the city of MARIANOPOLITANA, where she died piously; and although everything concerning her adolescence and youth may be ignored, nevertheless, from the teaching of Benedict XIV, the reputation of the virtues and sanctity of some Servant of God is fully confirmed, at least during the last ten years of her life; but in this Servant of God, there are not ten, but forty-seven years, which led her to a holy death in the city of MARIANOPOLITANA.

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2. The authority cited from Benedict XIV refers only to ancient manuscripts about which "silence has been kept by the ancients"; but in our case, the manuscripts are not only not silent, but have been acknowledged; indeed, they have been used by the most serious historians, namely Glandeiet in the life of the Servant of God in the year 1715, Ransonnet in 1728 in the biography of the same Servant of God, Mongolfier in 1780, and Faillon, who died in Parisiis not many years ago. Furthermore, these same manuscripts were acknowledged by both the Bishop and the Fiscal Promoter in the Marianopolitan process, since they were taken from the Archive of the Institute of the Servant of God and declared authentic by the Bishop himself.

3. Unjustly, better and more serious historical evidence is demanded.

[*Latin ed. p. 265*]

MARIANOTVITA 265. The documents, as the Promoter states, are lacking in certain respects and require examination; for so many and such weighty testimonies concerning the reputation of the sanctity of the life of the Handmaid of God are available, that certainly greater things could not be desired. It would have been burdensome to examine all and each of the things written about Margaret in the process, and thus to send an immense mass of material to Rome, at great expense and difficulty. Furthermore, the most important part of the documents, which, as the Promoter notes, indicate [her] sanctity, and which contribute especially to demonstrating the reputation of the sanctity of the Handmaid of God, are contained in the summary and in the documents of her life that were examined. In the life of the Handmaid of God written by Glandelet, which has already been presented to the Promoter, all the documents requested by him are present, and indeed they are authentic, according to the declaration of the Bishop. 4. The manuscript, bearing only the letter "G" in place of a subscription, which was presented to the Promoter himself, and which should not be confused with other anonymous manuscripts existing in the Archive of the Congregation of Sisters of Our Lady, has no other author than Glandelet; indeed, it contains the biography of the Handmaid of God, of which we are speaking here, which, as the Promoter himself admits, was written only fifteen years after the death of the same Handmaid of God. 5. The evidence remaining from extrajudicial documents inserted into this process cannot be excluded; for 1. when we are dealing with documents that have never been printed, but are found in archives, it is established that even if the work is a manuscript and has never been published, it can nevertheless possess the force of evidence, as Benedict XIV states in Lib. S. Cap. 9, n. 1; 2. because, as the same Pontiff teaches, the first weight of faith and authority must certainly be given to the historians who wrote about events in which they participated, or which they heard from those who had seen them, "provided that the historians themselves are honest

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and prudent, and therefore worthy of trust," Lib. III, cap. 8, n. 9; but it is clearly established that R. D. Glandelet (let others be omitted) wrote about things in which he participated, or which he heard from other witnesses. 3. Everything that pertains to the writings of the Handmaid of God must also be admitted as evidence; as Benedict XIV teaches in Lib. 3, cap. 10, n. 11: "Just as visions, apparitions, and revelations that the Handmaid of God reports as having happened to her must have the force and efficacy of evidence... so too, the same must be said..."

[*Latin ed. p. 266*]

266 In MARIANOPOLITANA, concerning other matters which can be proven by the testimony of the Servants of God, provided that it is established from other documents that they possessed heroic virtues, or that they suffered martyrdom. Indeed, having obtained prior proof from other sources, it would certainly be improper to refuse credence to what the Servants of God have recounted about themselves... Therefore, if the conduct is observed, and the exercise of heroic virtues is seen to continue, and to extend until death, this can lend authority to apparitions and visions, etc., as well as to other things which they relate about themselves." Furthermore, this cause does not rely solely on authentic documents, but also on the testimonies of duly examined witnesses, and on all available evidence. 4. Although this cause is in a situation where, due to delays spanning almost two centuries after the death of the Servant of God, no witnesses of sight or hearing remain, but only those of the third order, and therefore only suitable for subsidiary proof, nevertheless this cause will never be without the benefit of the Benedictine Decree. For that Decree stipulates that subsidiary proof may be admitted in the causes of simple Servants of God proceeding through a non-cultus process, provided that it has not been established that the initial, authoritative process was maliciously delayed, or that it was delayed through culpable negligence for so long that no witnesses of sight remained; and the author of that very Decree confirms this, saying: "It is possible that in Apostolic processes, histories, contemporary monuments, the testimonies of confessors of the Servant of God, and other similar things may be found, which, when joined with witnesses of hearing, would constitute sufficient proof" (Lib. U, cap. 36, n. 17). But this cause is already supported by authentic and indeed very serious documents, many of which will be included in the Apostolic process. Furthermore, the Letters of Innocent IV are favorable, where he says, speaking of the cause of Blessed Brnnon, Bishop of Herbipolensis, in addition to other things: "We command that you, and others worthy of trust, diligently inquire not only through witnesses, but also through reputation, and through hearing, and through authentic writings concerning his life and conduct and merits, and that you faithfully transmit to us what you find, under your seals." (Loc. cit.). Furthermore, many examples are favorable, of causes which, after a

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long period of time, have been presented for judgment to the Holy Roman Church.

[*Latin ed. p. 267*]

MARIANOPOLITANA was completed with a favorable outcome. However, the delay in the construction of this process until this time is not to be attributed to malice or culpable negligence, but to adverse circumstances of place and time, due to the devastating wars that afflicted the Canadian region. Therefore, since neither malice nor culpable negligence was the cause of the aforementioned delay, it is equally fitting to admit that a legitimate subsidiary proof exists, according to the teaching of Benedict XIV. "Gladly," says the Advocate for the Cause, "we agree with the Promoter of the Faith, namely that these objections are presented by him, and that the fame of the sanctity, virtues, and miracles is presently also in doubt, but that this fame is rightfully to be inferred from these witnesses, who demonstrate it from a constant tradition, which has never been interrupted and has become more vivid with each passing day." As for the writings of the Servant of God, we concede that they do not demonstrate the fame of sanctity, but they constitute a source of proof regarding the actions of the Servant of God, as has already been demonstrated. Finally, concerning the historical accounts, something else must be said, because, according to Benedict XIV, proof of fame can be achieved "through the examination of witnesses, and through historical accounts"; and although he adds: "historical accounts, dedicatory inscriptions, votive tablets, and similar things cannot constitute a perfect or adequate proof of fame, but they will be aids"; nevertheless, he concludes as follows: "As for a recently published life, it must be said that it is not sufficient to establish a legitimate origin of fame, for the purpose in question, unlike an ancient one published by a recognized author." Lib. H Cap. 40 no. i. and no. 8. - 7. The estimation that the Servant of God made of herself, due to her outstanding deeds, could undoubtedly be combined with the true sanctity of the Servant of God. For many, through their works, have been most useful to civil society, and yet we see them elevated to the honors of the altar. Indeed, the civil contract, from which, according to the Promoter of the Faith, the Servant of God obligated herself to Maisonneuve for the opening of a school in the Canadian region, and therefore dedicated herself to it, is nothing more than a mere supposition of the same Promoter, because neither the contemporary author of the life nor any witness makes any mention of such a contract. However, when the Servant of God first arrived in the Canadian region, she was unable to establish a Congregation, and certainly had a divine vo-

[*Latin ed. p. 268*]

26S In MARIANOPOLITANA, the devotion to the Servant of God, which had already taken root in her heart, was later manifested. This

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institution, which she did not at that time intend to found, but which was certainly brought about by circumstances in a rural region, she later completed, and this did not exclude divine vocation. The prelates of MARIANOPOLITANA, indeed, extolled the Institute of the Servant of God with praises, and also petitioned the King of the Gauls, so that a certain income might be assigned to it; but, unjustly, the Promoter of the Faith asserts that the reputation which flourished especially among those who, above all others, referred her work to political advantages, must be re-examined from this Institute. It cannot be that the Promoter, when writing this, has forgotten either the virtues of the Servant of God, from whose excellence her sanctity derived its origin, or the testimonies concerning her person and her sanctity, with which this Summary abounds. Many virtuous men, who consulted the Servant of God, confirm this reputation; her own letters addressed to those who consulted her; testimonies published immediately after her death by bishops and other most distinguished men; and also the immense gathering of people who came to her funeral. As the reputation of the Servant of God's sanctity shines more and more brightly, this (Ben. XIV, Lib. II, cap. 39, n. 7) is nothing other than an estimation or common opinion concerning the purity and integrity of her life and her virtues; and this opinion will be well-proven by witnesses, if one of them testifies that he heard the people speaking, for example, of the virtue of FAITH, or of certain acts of faith; and another testifies that he heard the people speaking, for example, of the virtue of Charity, etc. (Ibid., Lib. III, cap. 40, n. 2.) Therefore, the witnesses prove the reputation not only with general, but also with very general words. However, our witnesses, under oath of religion, have recounted not only general, but also specific things from tradition, and specific acts of each virtue, as can be seen in the tables of this Summary, which therefore sufficiently and abundantly demonstrate that the universal reputation of the sanctity of the Servant of God did not originate from any other source than from her heroic exercise of virtues, and that it persisted until the very end of her life. The growth, extension, and continuation of this reputation until these times are clearly demonstrated by various witnesses and by many Postulatory Letters addressed to the Apostolic See, from bishops, priests, and most distinguished men, concerning this Servant of God.

[*Latin ed. p. 269*]

MARIANOPOLITANA, 269, regarding the beatification. Finally, it is established from the Summary that this reputation also persisted and still persists in the city of Trecensi, where the Servant of God was born. The Promoter points out that the early years of the Servant of God were not at all insignificant, but the Servant of God herself recorded this: however, these facts do not obscure her sanctity; for the more powerful the force of desires is exerted, the more material is provided for demonstrating heroic

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virtue; as happened with countless Saints. A contemporary author of her life testifies: "Until the age of forty-five, she did not know what sin was, contrary to holy virtue." She herself confessed this to me in the Tribunal of Penance. Having entered a congregation founded by Father Fourier, she was appointed President because of her piety and zeal, and she diligently fulfilled this office for twelve years with great merit. After this time, desiring a more perfect life, and with the advice of her confessor, she requested to be admitted first among the Carmelite nuns, and then among the nuns of St. Clare; but she was rejected by both, not because of a fault of opinion, as the Promoter presumes the nuns may have had, but because God clearly ordained it "so that no impediment would be placed in the way of those who conceived eternal Wisdom." Having founded a new community with Father Jandret, her confessor, she joined this; but shortly afterwards, with God's permission, it was dissolved, and she returned to her own family. Twenty-one years had passed since the mandate from her sister, and the care of her brother, from the time when she left her paternal home to seek the new community of Father Jandret. By this time, her brother and sister were already grown, and they certainly needed her care little. When she returned to her own family, her father was still alive; but he died shortly afterwards. After her father's death, she devoted herself more and more to cultivating virtues. In the year 1653, at the age of thirty-three, with the prior consent of the Superiors and the prior renunciation of her possessions, with the favor of her brother and sister, whom she left under the guardianship of her uncle, she departed for America with Monsieur de Maisonneuve. Shortly before her departure, the Blessed Virgin appeared to her, and demonstrated that the work she was undertaking would be pleasing to her. From these things, it is clear that she did not act imprudently, as the Promoter says, but with divine inspiration, with heroic fortitude, and with extraordinary trust in God, in undertaking this most difficult and arduous journey, completely lacking in support. The path to the found-

[*Latin ed. p. 270*]

270 MARIANOPOLITANA. Having been unable to find suitable companions in the Canadian region, she returned to Gallia, and there recruited them. The reason for this return to Gallia clearly demonstrates how undeservedly the Promoter claims that the Servant of God acted imprudently in the beginning of the foundation. Having subsequently recruited companions, on September 29, 1659, she returned to Marianopolis and "laid the foundations of the Community under Our Lady." In the year 1670, she again petitioned Gallia in order to obtain official letters from the King. In the year 1672, having recruited new companions from the city of Trecensi, she returned to Marianopolis, where, in addition to other matters that led to a happy outcome, she built a church dedicated to the Mother of God under the title of the Assumption, and established missions among the young

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women of the wilderness. When the definitive approval of the Constitution of the Congregation seemed opportune, she went to Gallia a third time, at the request of the Bishop of Quebecensi, and upon her return to Marianopolis, "three years after a violent fire consumed the house of the Sisters," that is, in the year 1683, not, as the Promoter claims, in the year 1659, that is, three years after the beginning of the foundation. On the occasion of this fire, the Bishop proposed, but did not order, that the Servant of God unite with the Ursulines of the city of Quebecensis; therefore, it was not a command, but a simple suggestion. However, she, being a daughter of exemplary obedience, "according to common testimony," submitted to the consideration of the Prelate the good that she believed God had inspired, which she did not consider compatible with cloistered life; and the Bishop, amazed by her heroic trust in God and her fortitude, did not insist. It is also clear that the Servant of God undertook this journey at the suggestion of the Bishop of Quebecensis, Lavai, and that she took with her young women, not for the purpose of her own Community, as the Bishop of St. Vallier desired, but simply as female companions on the journey, "to the designated colony." The Bishop's opinion was that the two Communities, namely the Ursulines of the city of Quebecensis and the Congregation of the city of Marianopolis, should unite. However, the Servant of God, being fully aware of the abundant fruit of her Institute, when urged to adopt the cloister, responded: "The cloister is truly the preservation of our sex, but we can have no greater Protector than She, who was the type of purity." The Bishop, moved by this humble observation, and persuaded by the counsel of upright men, who desired what the Servant of God readily conceded. Therefore, she...

[*Latin ed. p. 271*]

MARIANOPOLITANA has never shown itself to be disobedient, but always subject to the Bishop. Its constitutions, according to the testimony of the most eminent churchmen, are full of wisdom and the spirit of God. The anxieties, caused by certain fanatical revelations of a certain Sister, were constantly borne by the Servant of God, with admirable fortitude and patience. Indeed, these anxieties never prevented her from visiting the Sister from whom she had received so much good, and when this Sister returned from Gallia, the charity of the Servant of God increased to such an extent that she gladly allowed her to return to Marianopolitan. However, when the Servant of God ceased from her office, she fell into great sorrow, as if a witness were brought forth by the very prosecutor; this happened because of the grief with which she was afflicted, and she herself revealed it, seeing that the spirit of perfect regularity, which she had cultivated with all her strength, was almost vanishing. Nevertheless, guided by humility, she always attributed the evils that she silently lamented to her own defects. After these and other matters were extensively discussed, the Most Holy

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Congregation issued the following DECREE: Concerning the Beatification and Canonization of the Servant of God Margaret Bourgeoys, Foundress of our Congregation.

Whereas, on the fifteenth day before the Kalends of December of the preceding year, the Sacred Congregation of Rites, by virtue of the powers specially granted to it by the Most Holy Pope Pius IX, had already graciously granted permission that the introduction of the cause of the aforementioned Servant of God Margaret Bourgeoys could be carried out in the Ordinary Assembly of the same Sacred Congregation without the intervention and vote of the Consultors, even though the writings of the same had not yet been examined or investigated; and whereas, His Eminence, Cardinal Aloysius Oreglia, appointed Relator of this Cause by the Most Holy Father Stephen of this time, at the request of the Reverend Father Arthur Julius Captier, General Procurator of the Congregation of Saint Sulpice, constituted Postulator of the aforementioned cause, having considered the Postulatory letters of many Most Reverend Bishops and other men of both ecclesiastical and civil distinction, who were assembled today in the Ordinary Assembly of the Sacred Rites at Vatican, proposed the following question for discussion: "Whether a Commission for the Introduction of the Cause should be appointed in this case and for the purpose of which we are speaking?" And the Sacred Congregation itself, after mature deliberation,

[*Latin ed. p. 272*]

272 In MARIANOPOLITANA, having heard the voice and the written words of the Reverend Father Lawrence Salvati, a member of the Order of the Holy Faith, it was deemed necessary to respond: "Affirmative, or to indicate that it is to be signed* by the Commission, if it pleases the Most Holy." On December 7, 1878. Subsequently, a faithful report concerning the aforementioned matters was submitted to the Most Holy Lord, Pope Leo XIII, by the undersigned Secretary. His Holiness approved and confirmed the judgment of the Sacred Congregation; and with his own hand, he signed the Commission for the Introduction of the Cause of the Venerable Servant of God, Margaret Bourgeoys, on the 19th day of the same month and year. D. CARDINAL BARTOLINIUS, Secretary of the Sacred Congregation.

FROM THE SACRED CONGREGATION: DECREE ON INDULGENCES. The fifth and twentieth year has arrived since the dogma of the Immaculate Conception of the Blessed Virgin Mary profoundly affected the entire Christian world with incredible joy; therefore, it is not surprising that the minds of the faithful have been filled with a desire to celebrate this day with more solemn devotion. Furthermore, many Holy Priests, wishing to bestow this sign of Christian joy upon the people entrusted to them, have humbly petitioned Pope Leo XIII, that the memory of such a great blessing might be adorned with the gifts of sacred Indulgences.

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Therefore, upon the recommendation of the undersigned Secretary of the Sacred Congregation for Indulgences and Sacred Relics, in an audience on September 20, 1879, the Most Holy Lord graciously granted a Plenary Indulgence to all the faithful of both sexes, who, on or near the feast of the Immaculate Conception of the Mother of God, or on one of the days within the Octave, have truly repented, confessed, and received the Holy Eucharist, and who have devoutly visited a church or public oratory and have prayed there piously according to the intention of His Holiness. This Indulgence may be obtained in the aforementioned time period, and may also be applied for the benefit of the souls of the deceased. This decree is valid without any brief. Notwithstanding any contrary provisions. Given in Rome, from the Secretariat of the Sacred Congregation for Indulgences and Sacred Relics, on September 20, 1879. AL. CARDINAL OREGLIA, Prefect. A. Panici, Secretary.

[*Latin ed. p. 273*]

273 LETTERS FROM HIS HOLINESS, POPE LEO XIII, CONCERNING THE WORKS OF THE DOCTOR, SAINT ALPHONSUS OF LIGORI, ADDRESSED TO LEOPOLD JOSEPH DU JARDIN ET JULIUS JACQUES, PRIEST, MEMBER OF THE CONGREGATION OF THE MOST HOLY REDEEMER.

Beloved Sons, Health and Apostolic Benediction.

Although the writings of the Saintly Doctor Alphonsus of Mary have already spread throughout the entire world, bringing great benefit to the Christian cause, it is nevertheless still desired that they become more and more widespread and be made accessible to all. For he has adapted Catholic truths to the understanding of all, has considered the moral guidance of all, has wonderfully aroused piety in all, and "has shown the way to those wandering in the darkness of this age, so that, being delivered from the power of darkness, they might pass into the light and kingdom of God." And indeed, with most solid arguments, he has fortified divine revelation against the Deists; he has vigorously defended the truth of our faith; he has most effectively asserted the immaculate conception of the Mother of God; he has most forcefully defended the primacy of the Roman Pontiff and the infallible magisterium; he has learnedly and piously illustrated the divine Providence in the plans for the salvation of mankind through Jesus Christ; he has explained the Psalms and canticles with commentaries most suitable for fostering the piety of the clergy; he has shown the glory of the Church in the triumphs of the martyrs; and, through published histories of heresies and dogmatic works, he has vehemently refuted all heresies, but especially the Jansenists and Febronianists, crushing those errors which were then most prevalent, and the monstrous consequences of those opinions, which now shake the foundations of religious and civil society. And it is evident how great

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was his insight at that time, so that many of the propositions which were later condemned in the Syllabus were specifically refuted in his writings. Indeed, it can truly be said that there is no error of our time which is not refuted in his works.

These letters greatly enhance the glory of the Saintly Doctor, and we commend to you the safe Acta, Volume XII, and again, the theological and moral teachings drawn from the purest source, the Angelic Doctor, Saint Thomas Aquinas. CXXXVIII, 18.

[*Latin ed. p. 274*]

274 Letters which, at least in the main part, have not been refuted by Alphonsus. And what shall we say of Moral Theology, celebrated throughout the world, which plainly provides a safe norm for those who seek guidance? He himself fostered, nourished, and promoted the cooling of charity through numerous and learned ascetic treatises, as if kindling fires under those who were cold; and especially towards our Lord Jesus Christ and His most sweet Mother, whose love inflamed even the hearts of the faithful with a wondrous zeal. And in all these things, "it is above all worthy of note that, although he wrote copiously, his works can be traversed with an unoffending foot by the faithful, after a diligent and careful examination." Therefore, beloved sons, we congratulate you on having translated into the French language all the dogmatic and ascetic writings of your most holy and learned Father, whether published in Latin or Italian, both because this will be able to spread the fruits of the excellent Doctor's labors more widely to almost all peoples, and because it was you, in particular, to whom this arduous task was entrusted, who have already written about the nature, doctrine, and sanctity of these same works, and, as sons, you will be able to more easily and fully impart the spirit of your Father to others. Indeed, we also congratulate you on your undertaking, under that name, which is the same that the Holy Author often boasts of having followed the doctrine of the Angelic Doctor in his writings; may this obedience to a more recent Doctor of the Church add new praise and glory to the doctrine of Saint Thomas, which commends even more strongly the restoration of Christian philosophy, which We have most diligently sought through Our recent encyclical letters to explore the mind of the Angelic Doctor. Therefore, we predict the greatest success for this recent edition of the works of Saint Alphonsus, and one that fully corresponds to Our hopes and your wishes; and in the meantime, We bestow upon you, beloved sons, and upon the entire Congregation of the Most Holy Redeemer, the Apostolic Blessing, a testament of Our paternal benevolence. "Given at Rome, at Saint Peter's, on the 28th of August, 1879, in the second year of Our Pontificate. LEO XIII."

[*Latin ed. p. 275*]

275 LETTERS FROM HIS HOLINESS, POPE LEO XIII, TO THE BISHOP

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OF VIGLEBANI, CONCERNING THE COMMENDATION OF THE DOCTRINE OF ST. THOMAS AQUINAS. Venerable Brother, Greetings and Apostolic Benediction. The congratulations and esteem of your clergy, venerable Brother, who are gathered with you for spiritual exercises in the buildings of this Seminary, and the testimony of filial affection, by which they furthermore wished to demonstrate their most ardent love for Us through a contribution made in the midst of their domestic needs, were most gratefully received and deeply pleasing to Us. This joy was further enhanced by that inclination of minds, by which they approved of Our recent encyclical letters concerning the restoration of Christian philosophy according to the doctrine of St. Thomas. For among them, learned men are not lacking, known for their writings; and we rightly trust that, adhering to Our documents, they will defend the wisdom of the Angelic Doctor against the recent systems, even of the more pious, which for a long time have divided Catholic schools, and against the opinions and forces of those who, while they ought to transmit sound and solid doctrine in harmony, contend with each other, not without detriment to truth and knowledge. Therefore, delighted no less by the testimonies of devotion than by this confidence, we express our most heartfelt gratitude to you and your clergy, and we pray for all good things for you; and as a pledge of our best wishes, and of Our special benevolence, we impart to you, Venerable Brother, and to all, and to your entire Diocese, Our Apostolic Benediction. Given at Rome, near St. Peter, on the 11th of September, in the year of Our Pontificate, the second. LEO XIII, POPE.

[*Latin ed. p. 276*]

276 FROM THE HOLY CONGREGATION FOR THE CULT OF THE COUNCIL, August 24, 1878. SUMMARY OF FACTS. From ancient times, the care of souls, which belonged to a certain primatial church chapter, was exercised by two vicars appointed by the chapter, removable at the chapter's pleasure, with a meager and inadequate salary. Therefore, in the year 1783, the Archbishop, in order to remedy this great evil, with authority obtained from the Supreme Pontiff, separated the care of souls from the chapter and its canons, and established a permanent vicariate, administered by two secular priests, who were not removable, with full and absolute parochial jurisdiction; and for their proper support, he assigned, in name and title, the revenues of a certain benefice, which, with the approval of the Supreme Pontiff Pius VI and the patrons, was suppressed. However, when disputes and quarrels arose between the two vicars with equal jurisdiction, in the year 1788, the Archbishop, by his decree, entrusted the administration of the parish to only one vicar, assisted by a chaplain, and assigned to him a certain benefice, called *Litterae M*, which was subject to the option of the canons. The chapter received this poorly, and, seizing the opportunity of the election of a new Archbishop, it devoted all its efforts

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to the secular prince to restore the said benefice to the option of the canons and to reinstate the decree of the year 1783 in all respects; and an agreement was reached. Furthermore, with the consent of both authorities, the secular and the ecclesiastical, a new decree was issued.

[*Latin ed. p. 277*]

In the episcopal visitation of 1816, it was decreed that, while the habitual care remained with the chapter, the actual administration should be exercised by two perpetual vicars appointed by the chapter itself and instituted by the Archbishop, after prior examination. However, on April 25, 1865, the canons, assembled in chapter, revived the method of removable vicars and decreed that, with the exception of those endowed with a provision for their support, vicars should henceforth be removable at the will of the chapter. With this provision in effect, the vicars acquired possession of the vicarage. However, this method of proceeding did not please the Archbishop, who therefore requested from the Sacred Congregation of the Council whether he should acquiesce in these innovations. The matter was discussed in plenary sessions held on August 5, 1876, and the response to the question – Whether and how pastoral care should be provided in this case – was: "Affirmatively, through a perpetual vicar and one assistant dependent on the vicar, > provided that the matter is brought to the attention of the Holy See." (1) This response, though received with due reverence by the Chapter, was nevertheless requested to be postponed until the time when the vicarage became vacant, so that the actual vicars currently in office would not be unduly compelled to abandon their duties, either both or at least one of them. Meanwhile, the Archbishop, fearing that the matter might be reopened, inquired of the Sacred Congregation to whom the right belonged to grant the institution in the case where the metropolitan church needed to provide for a perpetual vicar, as the aforementioned resolution suggested; that is, whether the institution should be granted to the chapter, according to the old practice, or rather to the Archbishop himself, according to the decrees of 1783 and 1788. At this time, one of the vicars, while the other remained, sent a notification of his resignation. The Chapter immediately declared the parish vacant and announced a competition. The vicar, Honoratus, considering his rights to be violated and disregarded, brought the matter before the Sacred Congregation, complaining that his "rights and possessions" were being violated, and that he was being unjustly deprived of his "office," from which he could not be removed except for just cause according to the sacred canons. (1) This case was reported in volume IX of these annals, pages 604 and following.

[*Latin ed. p. 278*]

278. MAINTENANCE » were expressed too clearly. Therefore, he de-

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clared that he wished to issue a protest before the Most Holy Congregation, as he had already done before the Archbishop, namely, that he wished to preserve, intact and secure, the rights of the perpetual vicariate of the primatial church. Having carried out these actions and proceedings according to custom, the proposed cause was presented at the general meetings of the Most Holy Congregation, with a summary of the allegations, which had been written out by the chapter and by the Vicar; and in order that the matter might be completely resolved, certain additional points were added concerning another doubt raised by the Archbishop regarding the right to grant an institution.

SYNOPTIC DISCUSSION.

FOR THE CHAPTER.

The Chapter argued that Honoratus was in no way entitled to possessory remedies, since vicars are not subject to the will of the patron, as Honoratus himself had renounced. Perezius, *lib. 2 de Ann.*, *cap. 6, n. 27 et 21*, states: "If a chaplain does not possess a benefice in perpetuity, he is against the patron, and therefore possessory remedies do not apply to him." This doctrine was clearly stated by the Roman Rota in the case entitled *Nullius Provinciae Hispalen. Iuris amovendi Vicarium super manutentione* on January 21, 1707, *fin. cor. Molines*; in which it was stated: "And certainly, in our case, the aforementioned Lawrence cannot seek possessory protection, because he received the title of his deputation as a vicar with the condition that he could be removed at the will of the Marchioness who appointed him; which operates in such a way that, even if Lawrence were to immediately demonstrate that he had not been able to be so removed at the will, he still could not be heard unless he first relinquished his possession."

Therefore, since Honoratus was elected as a removable vicar in the resolution of the Chapter on June 26, 1865, the Chapter concluded that it itself could not avail itself of possessory remedies. It does not matter that in certain patent letters concerning removability, neither a "vola" nor a word is mentioned, because the letters refer to the resolution of the Chapter on April 25, 1865, in which it was stipulated that the old method of removable vicars should be maintained.

[*Latin ed. p. 279*]

279 From these considerations, the Chapter deduced that the removability of its Vicar was being challenged by Honoratus, arguing that once something has been approved, it cannot subsequently be disapproved. Indeed, as stated in *De Reg. iur.*, and therefore Honoratus, who accepted his title as a removable Vicar at the behest of the Chapter, cannot today challenge it simply because he has now donned the pallium; for in doing

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so, he would be acting against what amounts to a contract between himself and the Chapter. Thus, the Rota declared in *Romana*. Regarding Capellaniaries, on April 15, 1701, § "Because," as stated to Pope Pius, "it is therefore impossible for him today to oppose a disposition of the same nature by claiming that the capellaniaries were perpetually attached to him, > when he himself accepted them as removable in his appointment." Nor can Honoratus oppose the Vicar who has been appointed as an immovable Vicar, as if the latter were to be considered a perpetual Vicar; for he was elected as a removable Vicar by the Chapter, and therefore he vainly attempts to claim rights of immovability, since those rights were never granted to him. Furthermore, the Chapter cannot be aided by appeals to archiepiscopal decrees, by which the immovability of Vicars was established; for all know that perpetual Vicars are to be presented for examination and approval, as decreed by Pope Pius V in the Constitution *Ad exequendum*. Therein, it is stated, "We wish and command that these Vicars be not appointed through the free election of the Ordinaries, but that they be nominated among those in whose united Churches they are placed, with the prior examination and approval of the Ordinaries themselves or of their Vicars." Therefore, since in the aforementioned archiepiscopal decrees, what is established by law has been stated, and Honoratus has not encountered any such danger, it is clear that the immovability of the Vicar cannot be sustained by any means. If he were to claim that he had been excused from examination by the Archbishop, everyone knows that the Archbishop could not have granted such a dispensation; and in fact, there is no trace of such a dispensation having been granted. Finally, the Vicar cannot find any support in the chapter of the canons of the Council of Monceaux, which states that a benefice should not be removed from its holder without just cause; for that concerns benefices which are granted in perpetuity. And the Head of [the] Ad...

[*Latin ed. p. 280*]

280. Regarding maintenance – Concerning Vicars – because the matter at hand concerns perpetual vicars, not temporary ones, who can be removed at the will of another, even without cause, since they have no right or title in the Church; nor is a temporary vicariate the benefice of Rebujf. See *De Nomin.*, question 15, paragraph 61, and in *Prax. Benef.*, title *De Disp. Act.*. Indeed, these vicars are said to receive a salary or stipend. From all of this, the Chapter concluded that, having considered the matter thoroughly, Honoratus should be maintained in the possession of the curacy.

FOR HONORATUS. On the other hand, it was observed that it is a common and established principle in law that maintenance is due to one who legitimately possesses [something]. See *Inst.*, section *Retinendae De Interdictis*; *Rota in Forolivien. Iurium parochialium*, March 16, 1789, section 5; *Parracciano in Asculanae Manutentionis*, June 17, 1791, section ibid. Since Honoratus legitimately possesses [the vicariate], it follows that

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he is entitled to the benefit of maintenance. There can be no doubt that he legitimately possesses [it], since he was elected in the chapter elections and received his institution through the patent letters of the Archpriest of the Primatial Church, delegated by the Chapter, by which he was appointed as a vicar with all the duties, honors, and emoluments pertaining to said office. Therefore, since Honoratus is found to be in legitimate possession of the vicariate, maintenance should be granted to him. This, moreover, was especially evident because there was no mention of removability in the patent letters, and the chapter's resolution, in which the canons intended to declare the vicariate removable, was not sufficiently supported, even with Honoratus's consent, since neither the chapter's decrees, strengthened by apostolic sanction, could be violated, nor could the consent of the elected change the nature of the vicariate. Furthermore, it was added that Honoratus, by accepting the vicariate, considered it to be perpetual, since he himself complains that the canons did not make known to him the resolution with which they intended to make the vicariate removable, and that he believed himself to be appointed as an immovable vicar, just as his predecessors were. Moreover, even if the vicar were removable, it would be unjust to remove him without cause.

[*Latin ed. p. 281*]

281. It is fitting, as Barbosa teaches in the Council of Trent, Session 7, chapter 7, concerning ecclesiastical benefices, and as has been repeatedly decided by the Holy Congregation of Councils. It was declared to be all the more necessary in the case of a perpetual vicar, who cannot be removed except for a known cause and with due process of law. Therefore, since there was no cause to remove him from the vicariate, and since the aforementioned individual had diligently and with merit served the parochial duties for a period of twelve years, it was concluded that Honoratus should remain in his position, and indeed, it was most unsuitable to subject him, who had labored so long in the service of the Church, to such extreme hardship.

CONCERNING THE RIGHT TO BESTOW THE BENEFICE.

After these matters, a discussion arose concerning the right to bestow the benefice, which was said to pertain to the Archbishop, for the right to institute [a cleric] belongs to the prelate or ordinary, according to the fundamental principles of law, as stated by Abbas, c. Cum Ecclesia Vulterana, n. 8, v. Tertio, de electione; Fagnanus, c. Eam te, n. 6, De aet. et qualit.; Cap. Auditis De Praescript., n. 2; Barbosa, De Off. et pot. Ep., Part. 3, Alleg. 72, n. 175 and 176, citing Rotam decis., 85, n. 1, p.-2, recent, and others. This is generally evident from canon 16 of the Basilica, question 7, where it is stated that all basilicas, according to the sanction of former canons, are

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under the power of the Bishop or Ordinary. This is also clearly evident from several other canons, which are omitted here for the sake of brevity. Therefore, the Bishop has a well-founded intention in law, both with regard to the granting [of the benefice] and with regard to the institution [of the cleric], as stated by Barbosa and Abbas, cited above. And therefore, if a dispute arises between the Bishop and another prelate concerning the right to institute [a cleric] to the benefice, the burden of proof belongs to the prelate. However, with regard to the present matter, it was argued that all doubt was completely removed by a certain decree of the Archbishop Franceschi, in which it is written: "The right to choose and present" the aforementioned vicars to the Canons and Chapter, and to their successors, "must entirely belong and pertain to us; but we, with our successors, must diligently examine and legitimately approve them beforehand, and institute them."

[*Latin ed. p. 282*]

282. To all these matters, attention must be added, for since it is the best interpreter of things, doubtful agreements and conventions must be interpreted according to it, even if a contrary understanding were truer. *Decret. 144 n. 5, 6, et 7, part. 14, recent.* Hence, since from the year 1783 until the year 1866, an institution was given to vicars by archbishops, there can be no doubt that, beyond the legal sanctions, the right to institute vicars was granted to the archbishops by this very institution. On the other hand, it was noted in the law that even by other ecclesiastical persons, or by Chapters or monasteries, the right to grant institution could be acquired, even in the absence of the Bishop. *Fagnanus — Cap. Cum Ecclesia — De caus. posses, et prop. n. 28 et seq.* When speaking of the granting of institution, he says: "Although this [right] pertains only to the Bishop, cap. Cum ex iniuncto," fin. De haer. in 6, "the canons do not prevent the Archdeacon from exercising it by custom, indeed, they assist this custom." Therefore, since it is certain that the Chapter, in this case, can possess the right to institute, as also testified by Viviani in his treatise *De Jure Patronatus*, lib. 1, c. 1, n. 199, it was concluded that it could not be excluded from exercising this right by any agreement. After these matters have been discussed, the following questions were proposed to be answered:

I. Whether it is established that the Reverend Priest S. has a good right to be maintained in the possession of the vicarage in this case.

II. To whom does the right to institute belong in this case?

RESOLUTION. The Sacred Congregation of the Council, on August 24, 1878, decided to respond:

To I. Considering the particular circumstances, the perpetual institution of the vicarage is to be granted to the Reverend Priest S., after due examination.

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To II. Affirmatively, with the favor of the Archbishop.

FROM THIS, IT CAN BE GATHERED:

I. Vicars and chaplains who are removable at the will of another cannot make use of possessory remedies, since they do not have a title, nor true possession, but only a mere deputation.

[*Latin ed. p. 283*]

283 II. He who obtains an immovable vicarage or chaplaincy can, by right, send a notification of his immovability; however, this does not in the least alter the nature of the vicarage or chaplaincy itself.

III. Although immovability is established, the chaplain or vicar cannot, therefore, be removed without any cause; but a just and reasonable cause is required, even if of small importance; and the solemn procedures which must be observed when removing any titular and immovable beneficiary are waived.

IV. Ordinaries, as is said, have the intention, founded in law, of granting perpetual vicarages; therefore, although the right to such a vicarage can be acquired by ecclesiastical persons, by monasteries, by chapters, etc., unless otherwise clearly proven, the institution must always be granted by the Ordinary.

V. In the case in question, the vicarage had been considered as perpetual, as had been effected by the decrees of the years 1783 and 1818, the former of which had been confirmed by the Holy See.

VI. Therefore, it was in vain that the chapter labored to restore the vicarages to their original nature, making them removable; for what had been approved and confirmed by the Holy See could not be changed by the Chapter.

VII. Honoratus, strictly according to the law, had not been immovable, since he himself had accepted a deputation from the Chapter, which had established him as removable; however, considering the particular circumstances, the Holy Congregation wished to grant him the institution, after a prior examination, as had been stipulated in the decree of the year 1816.

[*Latin ed. p. 284*]

284 CONCERNING PERPETUAL VICARS. February 15, 1879. Through a summary of prayers, a COMPENDIUM OF FACTS. The Ordinary, G., on March 15, 1878, presented the following to the Sacred Congregation: in Canon Law, Chapter 3 concerning the Office of a Vicar, Chapter 1 concerning Monastic Habits, in 6. A perpetual vicar must be nominated by the habitual rector and presented to the Bishop. . . . Once legitimately instituted (the vicar) immediately depends on the Bishop and can only be removed by him, for just cause, and not by the rector. "Since this arrangement had fallen

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into disuse, it was renewed by Pope Pius V in the Constitution *Quantum animarum cura*, directed towards the churches of Sardinia, in the year 1568. This was a great opportunity to restrain the greed of rectors; who, while enriching themselves with tithes, neglected what was necessary for the sustenance of life for their vicars in the care of souls. But even this Apostolic arrangement, drawn up for the protection of justice against habitual parish rectors, was circumvented by cunning and fraud; until Clement XIV, at the request of the kings of Sardinia, specifically determined that vicars, sent to the possession of parishes, could not be removed from the exercise of their duties without the concession of the Ordinary, and without a Papal Bull, unless a cause was brought before the local Ordinaries, who would inquire into it, and pronounce judgment summarily, and without legal fanfare. V. Constitution *Inter multiplices gravesque curas*, September 21, 1769. Due to the calamities of the times, the civil government decreed that the diocesan authorities should not confer a temporary parochial vicariate for more than six months; after which, the elected vicars should be incardinated in the parishes or removed. The Bishop stated, omitting that this arrangement was fiscal.

[*Latin ed. p. 285*]

CONCERNING PERPETUAL VICARS 288, it is entirely contrary to religion, and it also results in the Ordinary being compelled, due to the deficiency of priests, to appoint perpetual vicars who are entirely lacking in ecclesiastical spirit. Those who, having obtained possession of a parochial vicariate, no longer acknowledge any dependence on the resident pastors, are disregarded by their own parishioners, and themselves resist submission to the diocesan authority. Therefore, just as resident pastors might desire to remove vicars whom they have presented, so too, I maintain, the Ordinary, through private means, would wish to do the same, because the harms that these vicars inflict are truly great, by deposing them without a summary process; but a purely economic procedure, without any prior legal judgment of the Curia, but through an episcopal decree, would deprive them of the parochial administration, both in law and in fact. Having explained these matters, he requested from the Apostolic See: 1. Whether a parochial vicar, as in this case, is to be considered perpetual, in relation to the resident pastor, or also in relation to the Bishop? 2. Whether the Bishop could canonically remove him, based on reasons known only to himself; or whether he must initiate an economic process, as it appears to be the case, at the urging of the resident pastor? 3. How is the economic process to be understood now, since immunity ecclesiastical has been abolished, and necessary witnesses cannot be compelled to testify appropriately in the ecclesiastical forum? Furthermore, the Ordinary noted that the civil government does not require that vicars be admitted to canonical possession in order that they may receive a fixed salary; which is purely and simply

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deposited in the hands of the Bishops.

RESOLUTION. The Sacred Congregation of the Council, after deliberation on February 15, 1879, decided to respond as follows: To 1. Affirmative, also with regard to the Bishop. To 2. Negative regarding the first part, affirmative regarding the second. To 3. The summary process is to be understood according to law, that is, according to the form of the Constitution of Clement XIV.

[*Latin ed. p. 286*]

CONCERNING PERPETUAL VICARS 286. FROM WHICH, WE GATHER: I. A perpetually instituted vicar is truly a benefice, as stated in chapter 27 of the Rescripts: "For one ought not to be said to lack a benefice, to whom provision has been duly made from the revenues of a perpetual vicariate." Therefore, he cannot be removed except by committing a fault, through deposition or deprivation of the benefice, in a manner worthy of punishment. II. Perpetual vicars are entirely equivalent to parochial benefices, with regard to vacancies in parishes through the reception of others, with regard to the time when rectors ought to be promoted to the priesthood, and with regard to the age established by law, so that they may be able to acquire parishes. (1) III. Hence, just as perpetual vicars, while exercising actual care, are perpetual with regard to rectors who have habitual care (2), so they ought to be considered perpetual with regard to the Bishop, who cannot remove them, except for a crime, through a deprivation of the benefice that is worthy and legally proven. IV. However, perpetual vicars differ from parish priests in this, that they ought not, as in the case of vicars instituted *in aliud*, to require prior consent; but they are to be appointed and instituted for the nomination of habitual rectors, after they have been examined and approved by the Bishop. V. Perpetual vicars, concerning whom we have spoken, cannot be removed from their office, unless the Ordinary of the place has investigated the cause for removal, and has rendered a summary judgment, without undue publicity (3). (1) These legal provisions, which are perpetually united, are found in the Clementine Code. In that place, it is stated: "Those who have habitual care of souls in a parish, monastery, or other pious institution, through the reception of similar vicariates, and concerning the promotion of rectors to the priesthood, and concerning the age established by law, we wish to be observed by perpetual vicars, who serve the churches or administer the sacraments, independently of habitual rectors. Indeed, these latter cannot interfere." (2) Let it be remembered that a perpetual vicar is usually instituted in a curacy, which is held by a prebendary and a habitual rector, or by a cathedral church, or in the care of souls, without the consent of the vicar. (4) In Appendix IV, volume V, pages 35 and following, the matter

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of summary judgments is discussed.

[*Latin ed. p. 287*]

On the 25th of January, 1879, concerning the dismemberment [of a parish]. SUMMARY OF THE CASE. The most noble city, due to the excessive increase in its inhabitants, had been extended so far to the north, both widely and deeply, that, through new roads and the construction of new houses, it appeared as if a new city had been added to the old one. This vast territory, formerly almost deserted, remained under the parish of Saint Mary of Consolation, which was governed by a religious community. In order to provide for the salvation of his flock, the Ordinary petitioned the Sacred Congregation for the Propagation of the Faith, stating that, considering the density of the population, the proximity of heretical churches, and also the difficulty of access to the parish church due to the distance of the new houses, it would be beneficial to divide the existing parish and to establish a new parish in the church dedicated to the Virgin Immaculate, which had recently been built from its foundations with funds raised. Before presenting such a petition, the Ordinary had obtained the consent of the commission for the administration of the new church, had made all preparations for the proper appointment of a new pastor, and had also obtained the opinion of the Metropolitan Chapter, which had been favorable to him. However, the religious community that governed the church of Saint Mary of Consolation opposed the dismemberment, arguing that it was necessary and that it would cause them harm, and they insisted that the dismemberment not be granted, or at least that the care of the new parish be entrusted to their religious community. The matter was brought before the full Congregation of Eminences.

[*Latin ed. p. 288*]

288. CONCERNING THE DIVISION: Arguments in favor of the division. Since two matters are to be considered, one concerning whether or not the parish church of Saint Mary of Consolation is to be divided, and the other concerning the transfer of the religious family, which previously served the Bishop I., to the administration of the new church, first, in order to demonstrate the necessity of the division, the excessive increase in the number of parishioners is cited. For it is known that under the parish of Saint Mary of Consolation are included more than twenty thousand souls, which, in such an extensive territory, cannot be properly governed by a single pastor without discrimination in the care of souls. This is affirmed by all, both by the Bishops of neighboring dioceses and by the Municipality and dignitaries of the city of I. The division is to be granted, because nothing is lacking for the erection of a new parish, nor has anything been lost of the old one. Indeed, the Church of the Immaculate Conception was built with funds provided for this purpose, to serve as a second parish; and for the same purpose, it

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has been endowed with a suitable endowment by the Archbishop. As for the old parish, it is testified by the Metropolitan Chapter that, even in the expanded territory, there is such an increase in the population that it will undoubtedly remain one of the principal parishes of the city. For, after the division is completed, there will still remain more than twelve thousand parishioners, which is sufficient to maintain the status of this parish, under whose administration, in the year 1856, there were only eleven thousand parishioners. Therefore, from the division, only a portion of the undue increase will be lost, and there will remain, in accordance with the rules, as much as was previously possessed. It should not be considered that the needs of the parishioners can be met by the ministry of one or more vicars, who could also serve in the new Church of the Immaculate Conception; for this remedy should only be admitted rarely, prudently, and with due consideration, as stated by Van Espen, *Ius Eccles. Univ.*, part 2, section 2, title 1, chapter 3, number 30; and by Ursaya, *Discipline Eccles.*, volume I, part I, discourse 14, number 93: "One must proceed discreetly and discerningly," distinguishing between the remedy that is available through the appointment of a new pastor, and...

[*Latin ed. p. 289*]

DISMEMBRATIONIS 289: That which is obtained through the delegation of a chaplain differs in that the consultation remains in the manner in which it would have been had the consultation been through the delegation of a parish priest, both in terms of the person, who is always considered more worthy in the parish priest, and in terms of the dignity and revenues of the office itself, in which the parish priest, as the bridegroom of his Church and the pastor of his flock, cares for the well-being of his parishioners with greater diligence and charity, which a simple mercenary, such as the chaplain or vicar, does not do. In such matters, it is necessary to proceed with distinction, case by case. Certainly, where the increase in population is minimal, it is fitting to provide assistance through the delegation of a vicar; but where the increase is great, or even doubled, the opposite should be held. It is well known that Pope Pius VI, of blessed memory, in the Apostolic Briefs, noted that, at the end of the preceding century, in France, one parish priest was established for every six thousand inhabitants, because in no way could one parish priest suffice for so large a population to be cared for. Pope Leo XII, on the other hand, through the Constitution concerning the universal circumscription of new parishes in the city, decreed that the movement was solely based on the size of the population. Furthermore, this is truly a case for the erection of a new parish, according to the Tridentine Council, Session 21, Chapter 4, on Reform, because the distance from the parish church is great. The territory should not be taken from other churches within the parish boundaries, in which, in urgent necessity, the Sacraments are administered to the sick, Catechism is

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taught, and the Gospel is explained. For: 1. The priests provide a voluntary ministry and it is not essential; 2. There are more things to be done by the parish priest that cannot be done or are not done by others; 3. The parish priest should not be excused from performing his duties if there are other priests present who administer the Sacraments and teach the doctrines of religion; 4. In fact, it is not possible to exercise the care of souls in the churches located within the parish boundaries. Regarding the second doubt, the Advocate of the Bishop held that a religious family from Jiova should be rejected from the new parish, because... (the text is incomplete).

[*Latin ed. p. 290*]

290 The Sacred Canons permit the division of parishes to secular priests; and, except in cases of urgent necessity and with prior pontifical dispensation, the administration of a parish is not to be entrusted, as Thomassin states in *Veteris et Novae Ecclesiae Disciplinae Parochiales*, book 3, chapter 22, number 9; Barbosa, *Collectio Doctorum*, book 3, title 35, number 3; Pellizar, *In Manuali, Regid*, treatise 8, chapter 4, number 4, number 104; *Rota Decisum* 676, number 23 and following, before Molines, and *Decisum* 18, number 1 and following, before Riminaldo. To grant such a dispensation, two things are required: first, the consent of the Bishop; second, that "there are sufficient secular priests, or at least a secular clergy abundant in benefices." Fagnan, *In Cap. Quod Dei timor de statu Monach*, number 17 and following. And Cardinal Petra, in his commentary on the Constitution *Anattas IV*, Section 1, teaches that the regular clergy ought not to provide for themselves in such a way as to harm the secular clergy, who must consider the needs of themselves and of the churches and people entrusted to them. It is not permissible to alter the existing state of affairs because of the supposed ruin of the regular orders, 1. because the principle of equality applies also to the secular clergy; 2. because, with the division of the parish, nothing is lacking to the regular family for its honest support; 3. because the law itself opposes the foundation of a new church dedicated to the Virgin Immaculate, since the founders intended that the church be erected "for the benefit of the people" and be entrusted to a secular priest.

ARGUMENTS AGAINST DIVISION. The argument against the division of the parish of Saint Mary of Consolation begins with the legal principle that the division of parishes, being an odious thing, is to be permitted only in cases of true necessity and without any other advantage, and only when other canonical remedies have been tried and found to be ineffective. Fagnan, book 3, Decret, number 17, chapter concerning the hearing. Thus, the Sacred Rota has held in several decisions, as mentioned above, and the Holy Congregation, not only in the case of Casitana, May 24, 1659, and in the case of Piacentina, April 13, 1726, or in the case of Derthonen, April 5,

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1732, but also most recently in the case of Januen, April 15, 1875.

[*Latin ed. p. 291*]

DISMEMBRATION 291. In the case where prejudice to the Mother Church is involved, which is most clearly confirmed by the enormous expenses incurred by the current pastor, and by the right acquired by the aforementioned order through a bull, which obtained the current parish as compensation, namely the location of the ancient parish of St. James, the only legal reason for granting a dismemberment is excessive distance, for which no other remedy exists. *Rebuff. prax. benef. part. I De erect. in Cur. et Paroec. et Fagnan. cit. cap. — ad audientiam — num. 19.* This distance, however, must be so significant that it renders access to the parish for receiving the Sacraments impossible. In fact, this great difficulty in accessing the parish church does not manifestly exist, either from sixty years of experience or from the unanimous testimony of the Fabriceriorum (church wardens): for the distance does not exceed one Roman mile, and access to the parish church is easy through roads suitable for carriages. Indeed, it has been clearly demonstrated that a distance of two or three Roman miles is insufficient to demonstrate the necessity of dismemberment, as declared by the Sacred Congregation of Councils in Constantinople, June 27, 1761, and in Piacenza, April 19 and May 10, 1766. Furthermore, in Ades, besides the Church of the Immaculate Conception, there are the churches of the Barnabites and the Capuchins, who spontaneously offer their assistance to the pastor of St. Mary of Consolation. It is also possible to provide for a vicar or chaplain to be appointed in the Church of the Immaculate Conception itself, so that the needs of the parishioners are met. However, this possibility of providing in this way does not exclude the necessity of dismemberment. *Rota in Oveten Erectionis Parochialis, May 12, 1681, and Decree, July 13, 1713, cor. Crispo, no. 20. Constantinus in Ada, Votum 343, no. 28 seq.* The reasons for excluding the grounds for granting a dismemberment confirm just and suitable reasons why the dismemberment should not take place: 1. because the part of the parish that would remain after the dismemberment would be detrimental to the religious community; 2. because the pastor would be unable to pay the debts already contracted for the restoration of the church.

[*Latin ed. p. 292*]

292. After these reasons for division had been presented by the Bishop, the Parish Priest opposed them, arguing that neither the spiritual good of the parishioners, nor the machinations of heretics, nor the number and distance, warranted granting a division. He endeavored to confirm all these assertions with facts relevant to the matter. Finally, after the granting of the division, addressing the question of whether or not a new parish should

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be granted to his religious family, he stated: 1. That the division must be carried out with the least possible prejudice to the Mother Church; 2. That the interests of those involved, and especially the consent of the Parish Priest, must be considered, except in the case of unreasonable opposition. Indeed, the Parish Priest maintained that a very grave injustice would be done through the division, and that there was no remedy to mitigate this injustice other than to establish a perpetual Vicariate, and to entrust it to a priest of the same religious family. To the religious order belongs the right to present the Parish Priest – Reiffenst. Decr. lib. 1 t. 28, Pirhing. eod. tit. Fagnan. cit. cap. Ad audientiam num. 85 « Therefore, whenever a Parish Priest is to be appointed to a new parish, the Parish Priest of the old parish will have the right to choose and present him. With these and other things presented here and there, the following propositions were to be resolved: I. Whether the reasons for the division of a parish exist in this case. And to what extent, affirmatively. II. Whether it should be granted to the petitions of the Fathers of the Augustinian Order for the granting of a new parish to them in this case. RESOLUTION. Regarding the proposed cause for the division, the responses given in the plenary assembly on January 25, 1879 were: To the first, affirmatively and moreover. To the second, negatively and moreover. FROM THIS, IT IS UNDERSTOOD: I. That the excessive increase in the population, and the distance from the Parish Church, are the main, according to canon law, reasons for granting a division.

[*Latin ed. p. 293*]

DISMEMBRATIONIS 293 II. It particularly happens that a division takes place when it is demonstrated that nothing is lacking in the erection of the Church, nor is anything of the ancient order lost. III. That nothing is lacking in the erection of the Church is understood when all things are prepared, so that it may serve secular concerns, and it has been endowed with a suitable dowry for that very purpose. IV. It can be said that nothing of the ancient Church is lost, if, after the division, it returns to the same state in which it was before the increase of the people began. V. The ministry of vicars or chaplains ought to be admitted rarely, prudently, and not without consideration, for the reason for deciding in such matters must be drawn from the circumstances of the case, with a distinction of case from case. VI. In the granting of new parishes, secular priests are to be preferred, and regular priests are to be admitted only in cases of urgent necessity and with obtained Pontifical dispensation to govern parishes. VII. The causes for obtaining a dispensation are to be enumerated: the lack of support from the Bishop and the absence of secular priests. VIII. But if the absence of secular priests does not exist, regular priests are not to be provided for at

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the expense of secular priests.

[*Latin ed. p. 294*]

294 FROM THE HOLY CONGREGATION OF BISHOPS AND REGULAR CANONS CONCERNING THE TAXATION OF CHURCH VESSELS. Dated March 28, 1879. SUMMARY OF FACTS. Francis, a Knight, patron of the chapel erected under the title of the Nativity of the Blessed Virgin Mary in the collegiate church of Saint [unspecified saint], aware that he was burdened with various obligations pertaining to Masses, the total of which amounted to 176.31, desired to establish a canonry in said collegiate church. Therefore, on February 14, 1851, he obtained an indult from the Holy Congregation of Bishops and Regular Canons, by which the Bishop was granted the power to suppress the aforementioned obligations and, from the revenues thereof, to provide for the establishment of the canonry. The Ordinary, through his executive decree, assigned 160 scudi as the dowry for the new canonry, leaving 16 scudi to the patron for the embellishment of the chapel of the Nativity of the Blessed Virgin Mary. The obligations imposed on the new canonry were to celebrate a daily Mass in the collegiate church, and in addition, to say 250 other Masses annually in the same collegiate church. Many anniversaries were reduced to two; the administration of the goods of this canonry was left separately to the new Canon, with the obligation, however, of paying annually 12 scudi to the sacristan for sacred vessels, wax, wine, etc., for the celebration of all the sacred rites, by which he is burdened. At times, the patron redeemed the goods of this canonry from the State, for a considerable sum of money, with the authority of the Holy See; and in order that the patron might be reimbursed for this sum, on April 25, 1876, according to the instructions of the Holy Penitentiary, the obligations of the Masses were reduced to one-fifth. Therefore, the Canon petitioned the Holy Congregation of Bishops and Regular Canons that the 12 scudi to be paid to the sacristan should also be reduced proportionally, which the Capitulars [members of the chapter] refuse to do. The Bishop...

[*Latin ed. p. 295*]

The pus, favoring the Oratory, considered that the twelve scotatas could be reduced, until the indulgence for the reduction of Masses, granted for 14 years, would expire.

SYNOPTIC SUMMARY. CANONICAL RIGHTS. The Canons, with all their strength, oppose this reduction, relying on these reasons. They state that these twelve scotatas are not for the restoration of the sacristy for utensils, or for any other matter pertaining to the celebration of Mass; but rather, they are due to a certain agreement entered into between the Chapter and the patron. And although, it is said, the Canons pay twelve scotatas for utensils, nevertheless, the Canon hopes for no further reduction; because

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through these reduced Masses, he has been relieved of a heavier burden; for that which is contrary to the law is not to be brought forward to produce consequences (de reg. 141). Furthermore, it is derived from the Sacred Congregation that the reduction of taxes for utensils cannot be made, based on resolutions of the Sacred Council, confirmed by Innocent XIII through the Constitution "Nuper." It is not to be, that Churches and pious places, or their administrators, retain from the alms of Masses celebrated, even the smallest portion, on account of the expenses they incur in the celebration of Masses, unless the Church and the pious places have no other revenues which they may lawfully expend for those same expenses, and then, the portion they retain must not exceed the value of the expenses necessary only for the very Mass sacrifice itself. If it is maintained that twelve scotatas were established for the purpose of taxes for utensils, in proportion to that time, it must also be observed whether an amount exceeding that sum was established for the sacristy, which should provide for other expenses, besides the utensils for occasional Masses, whatever their number may be, as Ursaya teaches in Volume 5, paragraph 11, discussion 26, number 17: "From manual Masses, whatever their number may be, no obolus can be deducted." Furthermore, they believe that the Sacred Congregation has been accustomed to impose the entire payment for utensils whenever it grants such a reduction.

[*Latin ed. p. 296*]

296 REDUCTIONS; as happens with some of the Chaplains of the same Collegiate Church. And therefore, if a reduction is granted to the Canon, it must also be granted to the Chaplains. The Canons also argue that they are burdened with the obligation of assisting at two anniversaries, whereas the Canon is burdened with the obligation of paying 12 scudi. RIGHTS OF THE CANONICAL ORATOR. It is stated that, formerly, the Ordinary established the sum of twelve scudi exclusively for expenses; as is evident from a letter of the year 1850, sent by the Rector to the Bishop of that time. In which, when the items of the Episcopal act were explained, it is stated that the aforementioned sum was to be paid by the new Canon solely for the expenses, in proportion, so that the amount would be less, inasmuch as the number of Masses would be less. The equality of cases does not hold; for, in their case, a reduction of Masses was granted in favor of those who are burdened with the expense of expenses; and because they themselves redeemed the goods of their benefices. In the present case, however, the reduction of Masses benefits only the patron, and the new Canon is simply the possessor of the prebend. It has been observed that the tax for expenses has been modified in practice in the Church, according to the needs of the time, with regard to the Chaplains and perpetual Masses. Regarding this practice, Moncelli, T. 4, supplement to St. Thomas, n. 181, writes: "With regard to the contribution for the expenses of the Sacristy, the Holy See, in

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a decree of the Legation of Masses for the Archiconfraternity of St. Mary in Rome, dated March 26, 1679, responded in this way: that it should be a charitable contribution, in proportion to the manual alms current in the city; but that from the same hereditary revenues, four scudi should be deducted for each daily Mass, for the sacred vessels used for the celebration of this Mass; and that the legacy was conceived in such terms, that in each year as many Masses should be celebrated as the fruits of the inheritance would allow." With the passage of time, the tax for expenses has increased; so that, according to the Apostolic Visitation, a tenth part of the book is established as the tax for expenses, for each daily Mass. The Apostolic Visitation, in the general Congregation of the day, provides a rule for the reduction to be made for a canonical reason, on the 20th.

[*Latin ed. p. 297*]

REDUCTION, May 29, 1836, concerning a doubt: "Does the reduction of the charges of Masses necessarily entail a proportional reduction of the tax on sacred vessels?" The response was: "Affirmatively, only with regard to permanent reductions." It should not be forgotten that this concerns not a canonical cause, but an unjust law which imposes a harsh necessity without any utility, neither for the patron nor for the benefit of the rector, as would have happened had it been requested by the patron or the rector in every case. Here, however, the rector of the benefice is concerned with not paying an unjust debt, while the period of the concession lasts, or with avoiding a loss. With these premises, the prudent Cardinals assumed that the BIEBÍÍSSEBS An should be dissolved, and how the sum of twelve scudos should be reduced in this case. RESOLUTION. The Sacred Congregation of E. and R., after deliberation on March 28, 1879, decided to respond: "Considering the particular circumstances, affirmatively, according to the opinion of the Bishop." FROM WHICH YOU CAN GATHER THE FOLLOWING: I. Permanent reductions of the charges of Masses necessarily entail a proportional reduction of the tax on sacred vessels. II. The practice has varied according to the different times concerning the tax on sacred vessels; however, now, a tenth part of the book is established by the Sacred Congregation of Apostolic Visitation in the decrees of foundation, for each daily Mass celebrated. III. In the case where a reduction of the charges of Masses is being considered, neither permanent nor due to a canonical cause, a reduction of the tax has been granted, but not at all proportional.

[*Latin ed. p. 298*]

298 CONCERNING THE RIGHT TO CARRY THE CROSS AND CELEBRATE FUNERALS. March 28, 1879. SUMMARY OF THE CASE. The Minor Observant Fathers of the province of C., having obtained an indult from the Apostolic See, abandoned their own convent, located outside the city walls, in the year 1740. This was because regular discipline

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could be scarcely maintained there, besides other inconveniences to which they were subjected. Therefore, with the consent of the Ordinary, and after accepting certain agreements and conditions imposed upon them, they transferred themselves to the Church of Saint Rosalia, located within the city walls, which church was situated within the boundaries of the parish of Saint Eulalia. The patronage of that church belonged to the municipal government of the city, while the spiritual jurisdiction belonged to the Bishop. Now, the Reverend Chapter of that city, by a recently issued capitular resolution, has decreed to perform funerals and to sing the Mass for the Dead for its members and beneficedaries, without any prior notice, in the aforementioned Church of Saint Rosalia. Consequently, the bodies are transported from the homes of the relatives to said church, the Mass is celebrated, and all that is prescribed by the Ritual is performed; after which, the bodies are taken to the common cemetery, where they are given burial. From this, the Reverend Fathers appealed to the Holy See, demanding: whether the Chapter can lawfully perform such functions, disregarding the rights and privileges of the Regular Canons. A QUESTION FOR EXAMINATION. THE RIGHTS OF THE CHAPTER. In favor of the Chapter, it was stated in the information presented by the Ordinary that several conditions had been imposed upon the Reverend Fathers, concerning the transfer from

[*Latin ed. p. 299*]

CONCERNING THE RIGHT TO CARRY THE CROSS 299 from one Convent to another, as stipulated in the aforementioned grant. However, the questions raised pertain specifically to those contained in items number five and six of the same decree. "Fifth: The custom observed in the church of Saint Rosalia shall be maintained, which prevails in other churches of the Regular Canons, with respect to the illustrious Chapter of our Primatial Church, and to the Beneficiaries and Parish Priests of the same Primatial Church, and to the Beneficiaries of the same, namely, that the aforementioned illustrious Chapter, together with the Beneficiaries and Parish Priests of the same Primatial Church, may enter the church of Saint Rosalia with a cross raised, for the purpose of performing the office for the burial of the dead, until the final interment, and that the aforementioned Parish Priests and Beneficiaries of the same Primatial Church, if they conduct the funeral separately from the Chapter, may likewise enter the aforementioned church with a cross raised, in order to sing the responses and offer prayers over the bodies of the deceased. Sixth: In the absence of the illustrious Chapter, nor of the Parish Priests and Beneficiaries of the Primatial Church, it shall be permitted to the Parish Priests and the community of Beneficiaries of Saint Eulalia, notwithstanding the privileges of the Regular Canons, to enter the aforementioned church of Saint Rosalia with a cross raised, in order to sing the responses and offer prayers over the bodies

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being buried, when it is a matter of burying in the aforementioned church someone from the Beneficiaries of Saint Eulalia, or a Priest or ecclesiastic in holy orders, who is not a Parish Priest of Saint Eulalia. These agreements and conventions were formally approved by the Minor Canons; therefore, they obtained the consent of the Bishop, the Municipal Patrons, and also the pious Sodalitas Siculorum established in the aforementioned church of Saint Rosalia. Moreover, it should be noted that these Religious, in addition to other obligations, also accepted the clause imposed upon them by the pious Sodalitas Siculorum, namely: "That if the aforementioned Fathers, for whatever reason, should cease to reside in the new Convent which they intend to build near the church of Saint Rosalia, they shall not be able to retain the aforementioned church, and the pious Sodalitas, as before, shall be the custodians of this church." Finally, the Reverend Canons noted that the chapter's resolution was based on the decree of April 28, 1703, S.C. Ep. et R.

[*Latin ed. p. 300*]

300 CONCERNING THE RIGHT TO DISPLAY THE CROSS: The Church of Saint Rosalia had never belonged to the property of the Observant Minor Order, but rather belonged to the pious Sodalitas of Sieulorum. And therefore, when the Regium Demanium sought to add all the churches of the Regular clergy, and also to extract the convent located near the Church of Saint Rosalia, the Church of Saint Rosalia nevertheless remained separate. Finally, the Chapter began to demonstrate through facts its claim to an ancient possession, and to perform these functions in any church of the Regular clergy. And it noted that the Parish Priests, when it was necessary to record the names of those deceased in the churches of the Regular clergy or to be buried elsewhere, used the formula: "I entered with a raised cross, because of the ancient possession of the Parish Priests, and I buried [the deceased] according to the prescriptions of the Roman Ritual." Furthermore, it must be added that in the year 1812, when the Carmelites and the Observant Minor Order opposed the performance of burials in their respective churches, they presented a case to the decree of the Bishop of that time. By that decree, the Ordinary rebuked the Religious for their opposition, confirmed the work of the Chapter, supported by its own right, and added threats to the Religious, so that they would not in the future disturb the rights of the most ancient possession, "which, from time immemorial, the Parish Priests of this Primatial Church enjoy."

RIGHTS OF THE RELIGIOUS: The Reverend Father Procurator, however, stated that it is not permitted for Parish Priests or Canons to perform funeral rites over bodies that must be buried in the churches of the Regular clergy, because "the Sacred Congregation of Rites, on November 27, 1638, judged that this office belongs and pertains to the Regular clergy themselves, and not to the Curates of the deceased, and thus ordered that it

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be observed." These decrees are so clear that the question regarding them cannot arise. And in truth, the same Chapter, in the year 1659, claiming adherence to an alleged ancient custom, violently entered the convent of the Brothers Minor of Saint Maur, in order to perform services in that church. The matter being brought before this Holy Congregation, a decision was made in favor of the Religious; however, the Chapter retained the right to prove its alleged ancient custom. Since it never did so, that alleged ancient custom is of no benefit to the Chapter. But, the opponents, says the Procurator, reply: this does not concern...

[*Latin ed. p. 301*]

CONCERNING THE RIGHT TO CARRY THE CROSS 301, along with the rights and privileges attached to the Church, which the brethren abandoned outside the walls in the year 1749, but concerning the rights and privileges which they claim within the Church of Santa Rosalia, to which they transferred themselves in the same year; we deny only those things which are stipulated by the agreements and conditions imposed by the episcopal decree of translation and which were gladly accepted by the brethren. Since, in this matter, the core of the question appears to have been placed by the adversaries, the Reverend Procurator proposed two questions to be clarified, so that he might respond with facts and documents presented by the canons, as pertains to other religious orders. I. Did the decree of the Ordinary and its acceptance by the brethren, abolish the rights and privileges that were attached to the church located outside the walls, so that it can be said that nothing was transferred to the Church of Santa Rosalia? II. Granted and conceded, does the Chapter, by virtue of the aforementioned decree, still possess the right to enter the Church of Santa Rosalia with a cross erected, for the purpose of performing funeral rites over those buried there, or has this right ceased? Regarding the first question, the Procurator stated: It must be noted that the rights and privileges which are granted by the Apostolic See to Religious Orders, are granted to a moral person, composed of the members of the Religious Community. Thus, as long as that moral person exists, it retains all the rights and privileges granted to it, and carries them with it wherever it goes, provided that they have not been revoked by a legitimate authority. From this it follows that, when the brethren migrated from the convent outside the walls to the convent of Santa Rosalia, they carried with them the exemptions and privileges with which they had previously enjoyed. Because it is not the material building of the old convent that is exempt, but the religious community itself, which, wherever it may be, is always the same. With this established, the decree of the Ordinary remains invalid, because some of the agreements and conditions contained therein are contrary to the privileges of the religious order; which only the Holy Pontiffs or their delegates can revoke. This conclusion is strengthened by the decree of this Congregation itself, issued concerning

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the translation; in which it is affirmed that the Ordinary can...

[*Latin ed. p. 302*]

302 "BY THE RIGHT OF DEFENDING the requested cross," the translation states, "but with the same honors, privileges, prerogatives, and exemptions as those pertaining to the ancient Convent and the Church annexed to it." However, according to the opinion of the aforementioned Congregation, issued against the Chapter, the ancient Convent and the Church annexed to it possessed the privilege of not having the Chapter celebrate funerals within that Church. Finally, there is nothing to prevent the Religious from observing the agreements and conditions contained in the Ordinary's decree; for Religious cannot renounce the privileges granted to their own religious order without the consent of the Pope. Nor do the words contained in the decree of the Holy Congregation have any effect on the agreements and conventions made, because they must be understood in relation to the agreements and conditions of the Brothers, which are in no way opposed to the privileges; otherwise, the Holy Congregation would have contradicted itself by immediately adding, "and with the same privileges, prerogatives, and exemptions." Regarding the second question, the Advocate states: "Given and not conceded, the Chapter, by virtue of the aforementioned decree, has acquired the right to enter the Church of Santa Rosalia with a cross erected, to perform the office for the bodies buried there, but it cannot celebrate Mass for the repose of the soul in the presence of the body. For the decree does not mention Mass, but only the office for burying the bodies. However, the Roman Ritual does not prescribe Mass in the burial of bodies. Therefore, the Chapter's demand is abusive; and he who abuses his right loses it; for a privilege deserves to be lost by him who abuses the power permitted to him; Ferraris, V. Privilegium, art. 5, n. 13." Furthermore, it must be noted that the Chapter has lost this right through non-use; for it is established that the Chapter has never used this right from the year 1749 to the year 1812. And from the facts presented, only the Church of Santa Rosalia is considered; but a single fact does not constitute an immutable rule. Finally, the Advocate states, "If the Chapter has not lost the alleged right either through abuse or through non-use, it has lost it through the cessation of the cause for which it was granted, according to the principle 'cum cessante causa, cesset effectus, et cum cessante fine legis, cessat ipsa lex.' For the right to enter the aforementioned Church was granted to the Chapter by the Episcopal decree."

[*Latin ed. p. 303*]

ON THE RIGHT TO CARRY THE CROSS 303 Does the Church permit, other than for the purpose of conducting funerals over the bodies buried there, or by virtue of a title of election for burial, or a family burial plot, anyone to carry a cross? But it is well known that, since the year 1829,

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the civil law has prohibited the burial of the bodies of the deceased in any churches; therefore, since the final cause no longer exists, the right, to the extent that it existed, no longer endures. Nor is it to be said that the Fathers, by accepting the Church, stipulated its transience. For, in order for the pious Sodalitas of *Siculorum* to acquire its ancient privileges, it would have been necessary for the Brothers to no longer be able to reside in the Church, nor to perform sacred duties therein. However, the Brothers never abandoned the Church, nor the convent; and the pious Sodalitas, truly worthy of praise, by defending its right against the royal domain, obtained its cause, so that no Religious were troubled, nor were the agreements, firmly established, threatened to be broken. With these and other considerations preceding the present question, the following proposition was put forward: WHETHER it is established by law that the Chapter C. has the right to enter with a cross erected and to conduct funeral services in the church of Santa Rosalia in this case. RESOLUTION. The Sacred Congregation of E. and R., after deliberation, considered it appropriate to respond on March 28, 1879: Affirmative. On September 5, the following question was raised again, in the form of a doubt: "Whether and how one should depart from the decisions of March 28, 1879, in this case." But the S. C. of E. and R. responded: "In the decisions." FROM WHICH WE GATHER: I. Pontifical constitutions, even those containing privileges, or even decrees invalidating and clauses removed, can be infirmated by contrary, long-standing custom. II. In this matter, the Primatial Chapter of the Church has had the right, by long-standing custom, to enter, with a cross erected, all...

[*Latin ed. p. 304*]

304 CONCERNING THE RIGHT TO BURY THE DEAD WITHIN THE CHURCHES OF THE RELIGIOUS ORDER OF THAT PLACE, FOR THE PURPOSE OF PERFORMING THE FUNERAL RITES. III. This custom was strengthened both by the free stipulations and agreements entered into between the Reverend Fathers and the Chapter, and by the approval of the Apostolic See, as evidenced in the decree of the Sacred Congregation concerning the translation (1) of the Religious Family. IV. According to the most recent ecclesiastical jurisprudence, public cemeteries are considered to be substituted for the burial grounds of individual churches; therefore, the right to bury, having not been abolished, has only been materially altered in its location (2). V. Consequently, the fundamental reason for granting the Primatial Chapter the right to enter the churches of the Religious Order and to perform the funeral rites there, according to its own customs, has not ceased; because, under civil law, only the physical location has been changed, while the full right of the churches remains intact (3). The agreement "to bury" does not cause the church to lose the right to perform funerals; rather, it is certain that, having erected a cemetery, the location has been materially changed, but the right remains fully intact...

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(1) When the Apostolic See granted its favor for the translation, it did so in order to preserve the custom of the Chapter entering the churches, as these agreements attest (3). It is illegitimate that which is induced solely by secular power; which, without the intervention of ecclesiastical authority, would prevent the Religious Order from performing the funerals. Hence, it should be said that the Fathers did not, of their own accord, announce the abrogation of the privileges concerning the burial of the dead, but with the consent of the Holy Father. (2) Today, by civil law, for reasons of public health, bodies are buried in public cemeteries, "but the exercise of the right, by which the faithful and the Church enjoy, is not abolished, nor are the rights and emoluments lost," says Soglia, loc. cit. "But the Cardinal Soglia says in *Institutiones Ecclésiasticæ*, I, 2, cap. 5, § 6: 'Nothing has been taken away from the right, by which churches possess both the right to perform funerals and to receive emoluments. The law has not abolished anything, except within the limits of contradiction, as they say. Therefore, the Church, which had the right to bury in a certain place, now exercises that right in the public cemetery, and therefore, the right to bury has not been abolished, but the place has been changed."

[*Latin ed. p. 305*]

305 APPENDIX: AUTHENTIC DECREES FROM THE ACTS OF THE CONGREGATION. The Most Reverend Bishop of Oveten, the present Bishop, declared in his Cathedral Church that a parish had never been established there, nor did a baptismal font exist. However, on Holy Saturday and on the Vigil of Pentecost, a solemn blessing of water is performed, and has always been performed, without the admixture of holy oils. Since, according to the decrees of the Congregation of Sacred Rites, this blessing cannot be performed in churches that do not have a fixed baptismal font, a doubt arises concerning the lawfulness of the practice in his Church; yet, he dares to forbid the blessing himself, lest scandals arise. However, since he desires to proceed correctly in all things, he humbly proposed the following questions to the Congregation of Sacred Rites:

QUESTION I. Should a baptismal font be erected in the Cathedral Church, even if there is no parish there, nor does it have a proper territory?

QUESTION II. And if the answer to the first question is negative, is it permissible or fitting to erect a font at least?

QUESTION III. And if the answer to the first question is negative, can the custom of solemnly blessing water on Holy Saturday and on the Vigil of Pentecost be maintained in a portable vessel or font, without the admixture of holy oils?

Acts, Vol. XII, Part IV, p. 138. COLLECTION OF SACRED RITES.

And the same Sacred Congregation, having heard the written opinion

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of another of the Masters of the Apostolic Ceremonies, decided to respond in writing to the questions proposed, and so it responded negatively in all cases. And thus it responded on August 31, 1872.

ORDER OF THE GOLDEN FLEECE.

At the request of the Archduke Charles of Lorraine, concerning the question of whether the privilege of a portable altar granted to each Knight of the Order of the Golden Fleece by the Bull of Pope Leo X, dated December 8, 1516, still endures; the Sacred Congregation responded: Negatively, unless it can be shown that the privilege has been confirmed by the Supreme Pontiff.

August 31, 1872.

QUEBEC. By Apostolic Indult dated June 20, 1852, in the Archdiocese of Quebec, the solemnities of the Feast of the Nativity of the Blessed Virgin Mary, the Purification of the Blessed Virgin Mary, and the Assumption of the Blessed Virgin Mary, the Dedication of Saint Michael the Archangel, the Nativity of Saint John the Baptist, and of Saint Joseph, Spouse of the Virgin and Patron of the Catholic Church, as well as the Patrons and Titulars of Parochial Churches, can be transferred to the following Sunday. Standing with the same Indult, the Most Reverend...

[*Latin ed. p. 306*]

306 APPENDIX IT. The present Archbishop of Quebec humbly requested the Sacred Congregation of Rites to declare whether, in that Province, the solemn Mass for the Dead, celebrated in the presence of the deceased, is to be prohibited: 1. On the proper days of the feasts mentioned in the aforementioned indult? 2. On the Sunday to which the solemnity is transferred? And the Sacred Congregation, according to other decrees, decided that the answer should be: In both cases, affirmative, except for the feasts of the Purification and Nativity of the Blessed Virgin Mary and of Saint Michael the Archangel. And thus it was written on August 31, 1872.

RUPELLEN. The Most Reverend Lord Bishop of Rupellen and Santonensis, explained to the Sacred Congregation of Rites that, very frequently, the Mass cannot be celebrated for betrothed couples, because the civil marriage contract can only be performed after midday, before the magistrate. Therefore, he humbly requested that, considering the devotion of the betrothed, permission be granted to the parish priests of his diocese to impart the solemn blessings of the Mass for the Betrothed and the Bride, even outside of the Mass, whenever the same cannot be celebrated at a suitable hour. The Sacred Congregation, according to other decrees, in one dated at Montauban on August 14, 1856, and in one dated at Imola on March 26, 1859, responded to this request as follows: Negatively.

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August 31, 1872.

SYREN. The Most Reverend Lord Bishop Maria Alberti of Syren, humbly requested the Sacred Congregation of Rites to declare on the following two matters:

QUESTION I. Whether, during the ordination of a priest, both the Pontiff and the priests present, must first place both hands upon the head of the one being ordained, and after this imposition has been completed by all, then raise their right hands and hold them extended over him, while the Pontiff, standing with the mitre, alone recites the prayer, as some explain the prescription in the Pontifical regarding this matter; or rather, as is done in Rome at the Archbasilica of the Lateran, whether the Pontiff and the priests present, immediately after the imposition of both hands, extend their right hands, and hold them thus extended until the Bishop has completed the prayer?

QUESTION II. When giving Communion to newly ordained priests, should the formula "Corpus Domini" be used, or rather, should it be omitted?

The Sacred Congregation, having heard the opinion in writing of another of the Masters of the Sacred Ceremonies, decided to respond to the questions as follows:

To I. Negatively to the first part; affirmatively to the second. To II. As in the preceding. And thus it was declared and ordered to be observed on August 31, 1872.

SAGIEN. The Most Reverend Lord Bishop Charles Frederick Rousselet of Sagiensis, in France, explained to the Sacred Congregation of Rites that, for several years, he has consecrated several churches in his diocese.

[*Latin ed. p. 307*]

IX, IV. By Decree of Cardinal Caprara, April 9, 1802, § 4, it was commanded that the Anniversary of the Dedication of temples, which have been erected within the territory of the Gallican Republic, be celebrated on the Sunday that immediately follows the Octave of the Feast of All Saints, in all Gallican churches. The Most Reverend Bishop, as Orator, requested from the same Holy Congregation a solution to the following doubts:

DOUBT I. Whether the aforementioned Decree of Cardinal Caprara is to be understood only with regard to those churches which were erected and consecrated before the year 1802, and not with regard to those which were consecrated afterwards?

DOUBT II. Is the Anniversary of Dedications, which have been performed from the year 1802 up to the present day, necessarily to be celebrated on the very anniversary day itself? If not, is it at least permissible and possible?

DOUBT III. Given the obligation to celebrate the Anniversary of the Ded-

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ication each year on the very day of the Consecration, is it necessarily the case that, for recently consecrated churches, the Anniversary must also be celebrated on the Sunday that immediately follows the Octave of the Feast of All Saints, in addition to the dedication of all churches?

DOUBT IV. In the drafting of the act of Consecration, should a fixed seat be assigned for the Saint whose feast is celebrated on the day on which the church's Consecration is performed, and on which the Anniversary will subsequently be celebrated?

The Holy Congregation, having heard the opinion of one of the Masters of the Apostolic Ceremonies, decided that the following answers should be given to the proposed doubts:

307 To I. The Decree of April 9, 1802, made by the Most Reverend Cardinal Caprara, Legate a Latere, must be understood both with regard to churches consecrated before the aforementioned year, as well as with regard to those which are to be consecrated in the future.

To II, III, and IV. Provision is made in the first [response]. And so it was declared and commanded to be observed on August 31, 1872.

TOLEDO. The Most Reverend Franciscus Martinus Esperanza, Vicar General of the Archdiocesan Vicariate of the Archdiocesan of Toledo in Hispania, desiring that the ceremonies and rites prescribed in the Roman Ritual be observed in the administration of the Sacraments, of which some are not observed at all by the parish priests and assistants of this Archdiocese, and alleging that these ancient customs, although contrary to the Roman Ritual, are nevertheless to be maintained and have long held the force of law, transmitted to the Sacred Congregation of the Council several doubts, which were sent by the latter to this Sacred Congregation of Rites on May 28 of the current year. The doubts are as follows:

DOUBT I. Given the common and ancient practice of using a silver brush or rod in administering the Sacrament of Baptism in the church, in place of the thumb of the right hand, should this custom be abolished, since it is contrary to the Roman Ritual?

DOUBT II. In administering the Most Holy Sacrament of the Eucharist for the Holy Viaticum to the publicly infirm...

[*Latin ed. p. 308*]

308 APPENDIX IV. Whether, but without the baldachin, the custom of the parish priest or minister proceeding with his head covered is to be tolerated, while the faithful remain with their heads uncovered?

DOUBT III. Whether the custom of administering the Holy Sacrament of Extreme Unction, using a silver brush or rod generally, and not merely in cases of necessity, in place of the thumb dipped in the holy oil, as prescribed in the Roman Ritual, can continue?

To III and IV. See the provision in the first section.

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To V. Negatively, and the Decree of December 16, 1826, in Gandavensi, concerning III, must be observed.

To VI. Affirmative. And thus it was written and ordered to be observed on August 31, 1872.

DOUBT IV. Is it permissible to observe the aforementioned practice outside of cases of necessity, at least when Extreme Unction is administered without the presence of the people?

DOUBT V. Can parish priests retain the Holy Oil of the Sick in their own homes, since they live outside the parochial church, notwithstanding the Decrees of the Sacred Congregation?

DOUBT VI. Is the Diocesan Bishop obligated to compel all and each parish priest and priest to observe all that has been prescribed herein in the Roman Ritual, when no urgent necessity arises to act otherwise, notwithstanding any contrary custom, even if long-standing?

The Sacred Congregation, having heard the opinion of the Reverend Assessor of the same Sacred Congregation, and after mature and diligent deliberation, having approved the proposed doubts, responded as follows:

To I. Affirmative, unless there is a cause of necessity, according to the Decree of the S. R. C. in Portus, on May 9, 1857, concerning II.

To II. The custom of which we speak, in this case, is to be eliminated as an abuse.

Reverend Lord, as a brother, Your Eminence has explained to the Sacred Congregation of Propaganda Fide that the Feast of Corpus Christi in the Regions of the Vicariate Apostolic of Bombay entrusted to you, usually falls within the rainy season, which regularly begins at the beginning of June. Hence, the solemn procession of the Most Holy Sacrament, prescribed for that day, can rarely be celebrated. Since the celebration of this procession is very beneficial to the spiritual well-being of the faithful, as has been observed this year, when the procession took place because the aforementioned feast fell in late May, Your Eminence has requested that the Sacred Congregation grant permission to anticipate the Feast of Corpus Christi in the public forum, so that, on any weekday or Sunday, whenever it seems necessary due to the pressing rainy season, not only may solemn processions with the Most Holy Sacrament be carried out, but also at least on a weekday, a Mass of Corpus Christi with the Gloria and Creed may be lawfully celebrated in the aforementioned Regions, notwithstanding a lesser or greater feast day.

VICARIATE APOSTOLIC OF BOMBAY.

[*Latin ed. p. 309*]

APPENDIX IV. Since the aforementioned Sacred Congregation trans-

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mitted the very prayers to this Congregation of Sacred Rites; after mature deliberation, the following response has been approved: Negative. However, if Your Eminence should deem that a solemn procession of the Most Holy Body of Christ will be hindered by impending rains, this Sacred Congregation wished to inform Your Eminence that it is permissible for Your Eminence, by your own ordinary authority, to order solemn processions with the Most Holy Sacrament; nevertheless, under the condition that on the day of the solemnity of the Body of Christ, which is a weekday, namely the fifth day after Sunday of the Most Holy Trinity, the prescriptions both of the Ceremonial of Bishops and of the Roman Ritual be strictly observed. While I open the mind of Your Eminence to the sentiments of the Sacred Congregation, I earnestly pray for its lasting happiness. To Your Eminence: In Rome, on the 31st of August, 1872. As a brother. To the Most Reverend Lord, as a brother Bishop, Ascalon, Apostolic Vicar of Bombay. BAIONEN. (1) The Most Reverend Lord, the current General Vicar of the Diocese of Baionen, presented the following to the Congregation of Sacred Rites: On the Sabbath of the four weeks of Pentecost, during the Pontifical Mass, while the Bishop was proceeding to the Ordination of Deacons and Priests, certain newly ordained Subdeacons wished to recite their private prayers, which the Master of Ceremonies forbade them from doing. Having presented this, he inquired of the same Sacred Congregation: 1. Whether the precept concerning not reciting privately the Hours or prayers in the choir should be understood to apply only to those who, by reason of a benefice or other cause, are bound to serve in the choir, or whether it extends to all clerics who, for any reason, are present in the place designated for the clergy during the Divine Office? 2. Whether newly ordained Subdeacons are permitted to be excused from the private recitation of the Hours immediately after their ordination, during the ongoing ordination of Deacons and Priests and before the Pontifical Mass has concluded; or whether the Master of Ceremonies, according to the prescription of the Ceremonial, should oversee that no one has a book in their hands in order to recite privately the Hours or prayers? 3. Whether newly ordained Subdeacons are obligated to recite any of the lesser Hours on the day of their ordination? The same Sacred Congregation, having considered the questions proposed, deemed it necessary to respond as follows: Let the consulter consult approved authors. And thus it responded on the 28th of September, 1872. CENOMANEN. The Most Reverend Bishop of Cenomanen, in France, proposed the following doubts to the Congregation of Sacred Rites in order to resolve certain difficulties, and humbly requested their solution, namely: DOUBT I. The chapel or church of the seminary is a structure of sufficient size and is a separate building, permanently destined for divine worship, indeed consecrated under the title of Saint Vincent of Saragossa, Deacon and Martyr. In it, all the divine Offices are celebrated which are celebrated

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in other churches.

[*Latin ed. p. 310*]

310 APPENDIX, according to the custom received in the Diocese, and it does not depend on another Church whose Patron is to be venerated primarily by the clergy belonging to it, namely, by the clergy of the Seminary; no one can preside in it, except the Bishop, or the Director of the Seminary himself, or one of the Directors; the Cathedral Church receives certain services from the seminarians, but they do so alternately, and for the most part, the majority of them remain in the Seminary; it has a side wall and a main gate on a public road, and it is also open to the faithful. The question is asked whether the feast of this Saint should be celebrated in that church or chapel with a Mass and Octave, and whether a commemoration should be included among the prayers.

QUESTION II. It is asked whether Professors and seminarians who have received Holy Orders and who are obligated by the rules of the Seminary to celebrate the Divine Office there, or to assist at it, are bound to recite the Office of the Patron, as the Sacred Congregation seemed to have judged in the case of the Seminary of Roermond on February 27, 1847?

The Sacred Congregation itself, having heard the opinion in writing of another of the Masters of the Sacred Ceremonies, and having considered all things, decided to respond as follows: To I and II, affirmatively. And so it responded on September 28, 1872.

GALTELLINEN. NORAN. A controversy arose between the Archpriest of the Cathedral Church of Galtellinen, Noran, on the one hand, and the Beneficiate of the same Cathedral Church on the other, regarding the number of incense offerings that the Beneficiate should make when they assume the vestments for Vespers, and this was brought before the Sacred Ritual Congregation, with the following question: Whether the Beneficiate, when assuming the vestments for Vespers, should offer incense with a single censer?

The same Sacred Congregation, having heard the opinion of the Most Reverend Bishop regarding the information and the vote requested, and also the vote of another of the Masters of the Sacred Ceremonies, decided to respond as follows: Negatively, and the Rubrics and the Ceremonial of Bishops, as well as the Decree of the Sacred Congregation, published on March 13, 1900, should be observed; that is to say, the Beneficiate, whenever they are vested in sacred vestments, should always offer incense with two censers, as do the Canons, but after all the Canons. And so it responded, and ordered that this be observed in the Cathedral Church of Galtellinen, Noran, on September 28, 1872.

CARCASSONE. The Master of Ceremonies of the Cathedral Church of Carcassonne humbly requested the Sacred Congregation to declare the fol-

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lowing to be a question:

QUESTION I. Since it is prescribed in the Ceremonial of Bishops that the same order should be observed in giving the Pax as is prescribed in the incense offering, and that no invitations to receive the Pax should be omitted that are usually given during the incense offering; the custom has prevailed among us for about fifteen years, that we invite each other to receive the Pax, just as we would invite someone to receive the incense.

[*Latin ed. p. 311*]

x iv. NERRA. The question is whether such a practice ought to remain, or whether it should be abolished solely on the basis that certain books of ceremonies are silent on this manner of acting, as those who object claim?

DOUBT II. The Sacred Congregation of Rites has granted certain special privileges to dioceses. Among the privileges granted, there is one that is said on the Feast of All Saints and on the Feast of the patron of each church in the diocese. The question is asked: whether this granted Preface should be used on the Feast of Saint Joseph, Spouse of the B.V.M. and patron of the entire Church of Cattolica, and also on the Feast of his patronage, since now and forever the commemoration of Saint Joseph is to be made in the common prayers and in the prayer "A cunctis" in the Mass. The same Sacred Congregation, considering the proposed doubts, deemed it necessary to respond: To I. Negatively to the first part; affirmatively to the second, and the Ceremonial of Bishops, Book 1, chapter XXIV, § 5, should be observed. To II. Negatively. And thus it responded and ordered to be observed on September 28, 1872.

NIVERNEN. In the year 1844, in the month of July, the then Bishop of Nivérnen, Monsignor Dufêtre, consecrated a church which had been largely rebuilt. In this church, there was a stone altar on which a portable altar was placed. However, since at that time the intention of the moderators of the church was to consecrate that table as a fixed altar, the portable altar was removed, and another stone table was placed in its place, which occupied the space of the portable altar, but was so constructed that it formed one body with the larger table. In the front part of the table, a small niche was made for the placement of relics. The niche itself was constructed in such a way that part of it was in the larger table, and part was in the smaller table. The altar was thus arranged and consecrated along with the church, and Mass has always been celebrated on it, without anyone suspecting the invalidity of that consecration. However, since now there are those who doubt this matter, the Most Reverend current Bishop of Nivérnen, in order to remove all difficulty, deemed it his duty to refer the matter to the judgment of the Sacred Congregation of Rites, and humbly requested its opinion on the validity of the consecration of the aforementioned altar.

The Sacred Congregation of Rites, having heard the opinion in writing of one of the Masters of the Apostolic Ceremonies, after mature and careful

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consideration, deemed it necessary to respond: That the altar, concerning which it was alleged to have been invalidly consecrated, therefore, it is necessary to repeat the consecration, after the niche has been completely replaced in the larger table and the smaller table with a stone table that will serve as a marker for the relics. And thus it declared on September 28, 1872.

NIVERNEN. The Most Reverend current Bishop of Nivérnen, explained to the Sacred Congregation of Rites...

[*Latin ed. p. 312*]

31 2. To the Most Reverend Congregation: In many dioceses, there exist altars that have been consecrated, which, although completely enclosed in such a way that nothing can be introduced from the outside, are nevertheless empty on the inside. When a doubt arose as to whether these altars should be considered "full" in the sense required for their consecration, the aforementioned Bishop humbly requested that the same Sacred Congregation would deign to declare what is to be understood when it is prescribed that an altar to be consecrated must be "full": namely, whether it suffices that the table of the altar be attached to the four sides in such a way that, after consecration, nothing can be introduced inside the altar, or whether it is necessary that the table of the altar be attached to a brick foundation, so that there is absolutely no empty space beneath the altar itself. The aforementioned Sacred Congregation, having considered the matter raised in the doubt, responded as follows: Affirmative to the first part, negative to the second. And thus it responded on September 28, 1872.

NEAPOLITANA: A sodality under the title of the Seven Sorrows of the Most Holy Virgin, of the Noble Holy Spirit, canonically erected in the Church of the Blessed Virgin Mary of Gratiarum, commonly called "a Toledo," in the city of Naples, humbly requested of the Sacred Congregation that, until a chapel is constructed above the cemetery of the aforementioned sodality, it might, in the meantime, be permitted to celebrate the Holy Sacrifice of the Mass on the commemoration of all the Faithful Departed, and whenever any member of the sodality desires, in the altar constructed in the underground cemetery, where the bodies and bones of the deceased are found. These requests, having been communicated to the Sacred Congregation through the special intercession of His Most Reverend and Eminent Lord Cardinal Xisto Riario Sforza, Archbishop of Naples, were presented to the Congregation in a meeting held on the aforementioned date; the Sacred Congregation, having heard the opinion of one of the Masters of the Apostolic Ceremonies, as well as the Assessor of the aforementioned Sacred Congregation, decided to respond to these requests: It is not permissible. And thus it responded on September 28, 1872.

ORDER OF MINOR FRIARS OF St. FRANCIS (CONVENTUAL): The

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Most Reverend Father Fr. Bonaventura Keller, Minister Provincial of the Order of Minor Friars of St. Francis (Conventual) of the Province of North America, presented to the Sacred Congregation that, in the churches annexed to the convents of his Order in the aforementioned Province, the faithful frequently request the celebration of votive Masses, to such an extent that it is quite impossible to satisfy these requests on the free days, the number of which has been so reduced in the Order's calendar that scarcely one is found in each month. Therefore, the aforementioned petitioner earnestly requested that it might be permissible to satisfy both fixed and occasional obligations with Masses celebrated on days of celebration. The Sacred Congregation, having considered these requests, responded as follows: Consult.

[*Latin ed. p. 313*]

[X, while awaiting the Supreme Pontiff's decision. September 28, 1872. The aforementioned facts concerning the aforementioned matter were reported to His Holiness, Pope Pius IX, by the undersigned Secretary, and His Holiness, with paternal benevolence, approved that the aforementioned Masses of the Order could be fulfilled in the churches annexed to the convents of the aforementioned Order in North America, by means of daily Masses, applying their value to the intention of the Founders or Benefactors, whenever, either due to the large number of such Masses or for another reasonable cause, to be determined by the Reverend Provincial for the time being, the aforementioned votive Masses cannot be celebrated on days free from other obligations. October 3, of the same year. RATISBON. The Reverend Dom Ignatius of Senestrey, Bishop of Ratisbon, presented to the Congregation of Sacred Rites that in his Diocese, many Masses were founded, and that the faithful continually request Masses to be celebrated, which should be applied either in honor of some mystery, for example, the Most Holy Trinity, the Passion of Our Lord Jesus Christ, the Sacred Heart of the same Our Lord Jesus Christ, etc., or in honor of the Blessed Virgin Mary or the Saints. Such Masses, whether newly founded or already existing, are so frequent that it is in no way possible to celebrate them all, either on feast days that correspond to those intentions, for example, the feast of the Blessed Virgin, or on those days on which votive Masses with the same intentions are permitted by the rubrics. Therefore, in this Diocese, it was usually satisfied with the obligations of these Masses by celebrating a Mass according to the Calendar, which was done more securely, because it did not generally appear necessary to presume the will of the Founders or those who provided the stipends, that a votive Mass should be celebrated in the strict liturgical sense. However, since more recent writers, especially on liturgical matters, maintain that votive Masses must be celebrated in order to fulfill such obligations, and since these same authors confirm their opinion with decrees of the Congregation of Sacred Rites,

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the Bishop, as an orator, humbly requested the same Sacred Congregation to declare whether these decrees truly prescribe that such obligations can only be fulfilled either by Masses celebrated on a feast day, as long as some occasion corresponding to the aforementioned intentions arises, or by votive Masses celebrated in honor of those mysteries and saints. If this is affirmed, the same Bishop, as an orator, humbly supplicated that, in consideration of good faith, a remedy be granted for the past, and that, for the future, permission be graciously granted, so that in the Diocese of Ratisbon, such obligations can also be fulfilled by Masses celebrated according to the Calendar, unless the Founders or those who provide the stipends expressly request that a votive Mass, taken in the liturgical sense, or a Mass on a feast day coinciding with the intention, be celebrated. The same Sacred Congregation, in response to these requests, wrote: "It is advisable to seek the Supreme Pontiff's decision for a remedy, with caution, for the past, and for the future..."]

[*Latin ed. p. 314*]

314 APPENDIX IV. to the Ordinary of the place for the time being concerning the Altar; and therefore, the Advocate of the aforementioned Diocese, in order that the aforementioned healing may be granted, so that the new Altar may be consecrated to those churches subject to it, either by himself or by another Bishop, and so that it may proceed, with a large number of votive Masses, or for some other reasonable cause, so that the aforementioned Masses may be fulfilled with Masses of the day, applying their value to the intention of the Founder or Benefactor. And so it was declared on the 28th of September, 1872.

MELITEN.

On the 28th of September, 1872.

Concerning the facts of the aforementioned Most Holy Father Pope Pius IX, through the undersigned S.R.C. Secretary, in faithful relation, His Holiness benignly approved in all things, according to the aforementioned decree of the sacred three Sodalities of the Holy Spouse of the Virgin Mary, now called the Congregation of Saint Joseph, and canonically erected in the church annexed to the aforementioned Monastery, and on the other hand, a controversy arose: "Whether in the procession, which is held annually in honor of the aforementioned Saint Joseph by the same Sodality, the image of Saint Joseph should be carried in the middle of the procession, as was done up to the year 1867, or at the end, near the end of the Pontifical Procession, as the current Prior commanded."

However, the Sacred Congregation of the Council, to which this controversy was first presented, having received information and a vote from the Most Reverend Archbishop and Bishop of Meliten, transmitted the same controversy to the Sacred Congregation of Rites, which, on the 11th of March, 1871, in response to the prayers of the aforementioned Sodality

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members who were insisting on the maintenance of the custom, wrote: "The Advocates should insist on this point, namely, that the Prior of the Convent of the Carmelites, and the newly erected Altar, should be consecrated without the new consecration of the church itself."

Folio.

The aforementioned Sacred Congregation then replied: "The aforementioned church is to be considered properly consecrated, notwithstanding the invalidity of the consecration."

Afterwards, a disagreement arose concerning the agreement: this agreement was made in the presence of only part of the Sodality, while the other part, although cited,

[*Latin ed. p. 315*]

[X had not appeared: and, since the matter was doubtful, it was communicated to the absent party. Then, on March 2 of the preceding year, at a meeting of the Ordinary Congregation of the Sacred Rites, held at the Vatican, by the Most Reverend and Most Eminent Cardinal Camillo Di Pietro, the judge in this cause, the following question was proposed: "Is it permissible for a sodality to possess the right to carry a statue in processions held by the sodality, among the clergy?" Furthermore, the Most Reverend and Most Eminent Fathers, presiding over the same Sacred Congregation, having heard the voice and the written statement of the sodality alone, and having seen the rights of the Brothers transmitted by the aforementioned Bishop of Malta, replied: "Delay and write to the Most Reverend Archbishop and Bishop according to the intention." After, therefore, the mind of the Sacred Congregation had been made known, and its response received, and with the request of the opposing party for a resolution of the cause, the same was again proposed by the aforementioned judge at an Ordinary meeting of the same Sacred Congregation, held at the Vatican, on the date indicated. And the Most Reverend and Most Eminent Cardinals, having heard the voice and the written statement of the sodality alone, and having considered all the rights presented thus far, decided to reply: "Affirmatively; but so that, with regard to the return of the monstrance to the church, all Synodal regulations are strictly observed." And thus they replied and ordered it to be observed on February 15, 1873. SALZBURG. The Most Reverend Maximilian de Tarnoczy, Archbishop of Salzburg, and Primate of Germany, reported to the Sacred Rites Congregation that in the churches of his archdiocese, both secular and regular, there is a custom, dating from the time of Luther, and constantly observed until now, of blessing the people with the Most Holy Sacrament before the sacred functions and at the end, whenever it is exposed; and also with the pyx after the administration of the Holy Communion. However, today, for the first time, the Reverend Father Minister General of the same Brothers forbade this in the church of the Franciscans of Salzburg, causing sorrow to the faithful and to the Archbishop's

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orator. Therefore, he humbly requested that the Sacred Congregation grant him the faculty of ordering the aforementioned religious to continue according to the custom. Therefore, the following question was proposed in the Congregation of Sacred Rites by the undersigned Secretary: "Is the custom mentioned in the aforementioned archdiocese to be maintained or abolished?" The same Sacred Congregation, after mature deliberation and having heard the opinion of the Most Reverend Father Lawrence Salvati, Auxiliary Promoter of the Holy Faith, decided to reply: "Nothing is to be changed." And thus they replied, and ordered that it be observed in the archdiocese of Salzburg on February 10, 1873. SAINT GERMAIN. The Most Reverend John Langevin, Bishop of Saint Germain in the Canadian Region, reported to the Sacred Rites Congregation the following: Formerly, Saint Joseph, patron of the entire Canadian Region, was...

[*Latin ed. p. 316*]

316 APPENDIX IV. A canonically elected priest was appointed, and in that diocese, the Cathedral Titular is Sanctus Germanus. Furthermore, when a parish or mission is canonically established, a patron is granted by the Bishop, as has always been done from the beginning in the entire ecclesiastical province of Quebec. When a chapel or church is built there, the titular is almost always the same as the patron. With these things established, the same sacred Congregation humbly inquired about which patron or titular should be commemorated in prayers and in the "A cunctis" prayer, namely: 1) by the Bishop, 2) by the Vicar General and other priests of the Episcopal House, 3) by the priests of the seminary of Sanctus Germanus, 4) by any parish priest, 5) by any priest not attached to the service of any church? 1. Moreover, the same sacred Congregation, with the aforementioned Secretary, having heard the written opinion of another of the Masters of the Apostolic Ceremonies, and having carefully and thoroughly considered the matter, decided to respond as follows: Regarding the commemoration of Saint Joseph, the spouse of the Virgin Mary and patron of the Catholic Church, in prayers, and regarding the inclusion of his name in the "A cunctis" prayer, the Apostolic Letters in the form of a Brief of July 7, 1871, which begin: "To the Illustrious Patriarch," should be observed. Regarding the titular or patron of a church, 1) the Bishop should commemorate the titular of the Cathedral; 2) the Vicar General and other priests of the Episcopal House should commemorate the patron of the place, if a custom exists, unless they themselves are attached to a particular church; 3) the priests of the seminary of Sanctus Germanus should commemorate the titular of their own church, provided it is a public one; 4) any parish priest or missionary should commemorate the titular of their own parish; 5) any priest not attached to the service of any church should not make any commemoration, unless there is a custom of commemorating the patron of the place. Regarding the "A cunctis"

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prayer in any church, any priest should name the patron or titular of that same church. However, if the Mass is celebrated in a church dedicated to a particular mystery, or in a private chapel and oratory, the patron of the place can be named, if a custom exists of commemorating him in the Office; otherwise, the words "and blessed" should be omitted. And thus, it responded and ordered it to be observed on February 15, 1873. ROMANA. QUESTION: When the current Prefect of the Apostolic Ceremonies, in his work entitled "Manual of Sacred Ceremonies, Book II, Chapter XIV, § 7, page 32," after presenting various opinions, proposed that the image of the Divine Infant, exposed on the altar during the Nativity, should be incensed in three ways, and when some people object to this custom as an error, in order to eliminate, especially, the variations that cannot continue without some admiration of the faithful, this sacred Congregation was approached, humbly requesting that it define what should be done in this case.

[*Latin ed. p. 317*]

XIV. Wherefore, a doubt was proposed: Whether the sacred Image of the Divine Infant at the Nativity, placed in the principal place above the Altar, ought to be incensed with three thuribles, precisely in the same manner as the Cross with the Image of the Crucified is incensed. The same Sacred Congregation, having heard the report made by the undersigned Secretary, and also having considered the opinion of the Most Reverend Lawrence Salvati, Auxiliary Promoter of the Sacred Faith, after mature and careful deliberation, decided to respond affirmatively. And thus it responded, and ordered that it be observed everywhere, on the 15th of February, 1873: COLLEN. From the Extended Calendar of the Diocese of Colle di Val d'Elsa, by order of the Episcopal Curia of that City, the following doubts were humbly proposed to the Sacred Congregation for resolution: DOUBT I. The rubrics, and many resolutions of the same Sacred Congregation, declare that if any Church has two titular saints, not occurring on the same day, the feasts of both must be celebrated by the attached clergy under the rite of a Double Class, with an Octave; furthermore, they order that the feast of the titular saint of the Cathedral Church be celebrated throughout the entire Diocese under the aforementioned rite. Since the Cathedral of Colle di Val d'Elsa has two legitimate titular saints, assigned by the consecrating Bishop during the actual dedication, namely, Saint Martial and Saint Faustinus, and Saint Jovita, the question is asked: Do both enjoy the same right? And, if so, are all Regular clergy also bound to celebrate both feasts?

317 DOUBT II. Since there is no reasonable cause, and no Apostolic concession is found, for the feast of Saint Albert, the Confessor, Archpriest of Colle di Val d'Elsa, to be celebrated in one place under the rite of a Double Class, with an Octave, and in another place only under a Double rite, and on a different day; and since this Saint cannot truly be considered anything

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other than a less principal patron, for only Saint Martial is recognized as the patron, even with a feast day and holiday among the people, the question is asked: Can the Bishop assign to him, on the day of his glorious death, that is, the 17th of August, the rite of a Second Class, without an Octave, throughout the entire Diocese? The same Sacred Congregation, having heard the report made by the undersigned Secretary, after mature deliberation and consideration of all matters, decided that the proposed doubts should be answered as follows: Regarding I. The titular saints of the Cathedral of Colle di Val d'Elsa are Saint Martial, and also Saint Faustinus and Saint Jovita, and the feast of both titular saints must be celebrated throughout the entire Diocese under the rite of a Double Class, with an Octave, by the Secular clergy, and without an Octave by the Regular clergy. Regarding II. The feast of Saint Albert can be celebrated in the Cathedral under the rite of a Double Class, without an Octave, due to custom and a special reason; in the City and district, for example, under the rite of a Double Second Class, without an Octave; and, for example, also throughout the entire Diocese under the rite of a Lesser Double, by the Secular clergy. And thus it responded, granted an indulgence, and ordered that it be observed, on the 15th of February, 1873.

[*Latin ed. p. 318*]

318 APPENDIX IV. NÎMES. The Most Reverend Monsignor Henry Plantier, Bishop of Nîmes, requested of His Holiness Pope Pius IX, with humble supplications, that he would deign to approve, with Apostolic authority, the so-called "Crown of the Dead," which is customarily recited by the members of the Arch-Sodalitas of the Blessed Virgin Mary for the suffrage of souls in the City of Nîmes, canonically established. This Crown consists of larger beads and four decades of smaller beads; upon each of the larger beads, the Psalm "De profundis" (Out of the depths) must be recited, or the prayer "Requiem" or the "Our Father and Hail Mary" by those ignorant of the aforementioned Psalm; upon each of the smaller beads, the following prayer must be recited, expressed in French: "Sweet heart of Mary, consolation of those who suffer, pray for us and for the souls abandoned in Purgatory." He also requested that the following Indulgences be granted to those enrolled in the Arch-Sodalitas, namely: 1. A plenary Indulgence for each month, to be chosen freely on any day; 2. A plenary Indulgence on September 24th, that is, on the Feast of the Blessed Virgin Mary under the title of Our Lady of Mercy, the Patroness of the Arch-Sodalitas; 3. Also, a plenary Indulgence on November 2nd or 3rd, that is, on the Commemoration of All Faithful Departed; 4. An Indulgence of seven years and seven quarantines, as often as the entire Crown is recited; 5. An Indulgence of one hundred days for the recitation of the prayer attached to each bead of the Crown. Finally, he requested that these same Indulgences be applicable to the souls detained in the fire of Purgatory,

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and that the Directors of the Sodalitas, appointed by the Most Reverend Ordinary of Nîmes for the time being, be granted the faculty of blessing these Crowns and of applying the aforementioned Indulgences to them. The prayers of the Most Reverend Bishop, presented by the undersigned Secretary, were received by the Sacred Congregation of Rites, which, after hearing the vote of the Most Reverend Monsignor Lawrence Salvati, Assistant Promoter of the Faith, responded: "Affirmative, if it pleases His Holiness; and regarding the Indulgences, Apostolic Letters shall be issued in the form of a Brief." On February 15, 1873. The aforementioned matters were faithfully reported to His Holiness Pope Pius IX by the undersigned Secretary, and His Holiness, with special grace, deigned to approve everything according to the requests, and ordered that Apostolic Letters be issued in the form of a Brief regarding the Indulgences on the 27th of the same month and year. FODIA. The Most Reverend Monsignor, the present Bishop of Fodia, having observed in his diocese the custom of not bringing the bodies of the deceased to the Church before they are delivered to burial, but rather of having them immediately taken by their relatives to the cemetery, and consequently, these deceased receiving very little suffrage from the faithful, he supplicated the Sacred Congregation of Rites, so that the Most Reverend Ordinary of the Diocese of Fodia would be permitted to grant the faculty to...

[*Latin ed. p. 319*]

IX. Concerning the number of Masses celebrated in private chapels, erected with the authority of the Apostolic See, the number shall be determined by the Ordinary himself. To this request, the Sacred Congregation responded on September 28th of the aforementioned year: "Let it be written to the Bishop, according to the mind [of the Congregation]." With the mind of the Sacred Congregation made known to him, and having accepted its response, the same Sacred Congregation, having considered the newly presented matters, not only judged that the requested Indult should not be granted, but also advised the Reverend Bishop of Fodens to take care to eradicate the abuse that has arisen, and to restore the prescriptions of the Roman Ritual, so that, as far as possible, the bodies of the faithful may be brought to the Church for the celebration of funeral rites. April 21, 1873. CONCERNING GUADALAJARA. The Most Reverend Archbishop of Guadalajara, in the Republic of Mexico, presented the following to the Sacred Congregation of Rites: In this Cathedral Church, as in all of this Republic, the statutes of the foundation, established in the Third Mexican Council in the year of Our Lord 1577, prescribe the Gregorian chant in the Office and the Mass. Furthermore, the diocesan law establishes a school of this very chant in the Seminary, according to the decree of the Holy Council of Trent. Notwithstanding this, since the chant printed in the Missals in Spanish, which were formerly

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more common among us, is not the true Roman Gregorian chant, nor is it uniform in all editions, the use of this chant has increased not only in this Diocese, but in all Dioceses of the Republic, so that priests, in celebrating Mass, do not attend to the chant in the Missal, but rather use some traditional chant, not noted anywhere, and therefore variable at the discretion of each one, which is neither in conformity with the Gregorian nor with the Spanish chant, but has some remote similarity to both. Now, since we have Pontificals in the Reverend Apostolic Chamber and Missals printed in Mechlin, in which the true Roman Gregorian chant is found; and seeing the restoration of Gregorian chant in Europe, and also that Our Lord Pope Pius IX established the Gregorian chant in the Seminary of Pius; some priests, wishing to obey the law and the statutes mentioned above, and to standardize the chant, have begun to sing this Roman Gregorian chant in this Cathedral Church, with the consent of the Chapter, and are striving to spread it among all. Hence, some murmurs and doubts have arisen, alleging custom. Therefore, in order to resolve all of these matters and to put an end to all doubt in the future, the following two questions were proposed to the Sacred Congregation of Rites: QUESTION I. Is it lawful to disregard the chant in the Missal and to sing some traditional chant, not noted anywhere, and therefore variable at the discretion of each one, or should this be considered a corruption to be eradicated? QUESTION II. To the extent that the answer to the second question is affirmative, what chant should be adopted in the Mass, the Roman chant?

[*Latin ed. p. 320*]

320 APPENDIX IV. Is the formula for the prayers *nus* praised in the Pontificals and uniformly printed in the Missals of Mechlin, or is it different in Spanish Missals? Furthermore, the same Sacred Congregation, having received the proposed questions, gave the following response: To I. Negatively, to the first part; affirmatively, to the second. To II. Editions approved by the Sacred Congregation of Rites, or copies that are consistent with them by authentic testimony of the Ordinaries, should be used. And so it responded and ordered to be observed on April 21, 1873. OF THE HOLY JAMES OF CHILE. The Most Reverend Joseph Raymond Astorga, General Vicar of the Archdiocese of the Holy James of Chile, proposed the following question to the Sacred Congregation of Rites for a suitable solution: Is it permissible for the Ordinary of the Archdiocese of the Holy James of Chile to grant permission for the Exposition of the Blessed Sacrament to take place within the week of the Passion, and especially on the Sixth Day, on the occasion of the Feast of the Seven Sorrows of the Blessed Virgin Mary, in some side altar, because of a veil by which, according to a certain custom, the main altar, including the sacred tabernacle, is covered from top to bottom? The same Sacred Congregation, considering the proposed question, responded as follows: It is not forbidden that the Blessed Sacrament, if

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necessary, be exposed in a side altar; however, during the time of the Passion, sacred images and the Cross should be venerated, as far as possible, according to the established practice of the Church for ceremonial purposes of Bishops. And so it responded on April 21, 1873. OF THE HOLY JAMES OF CHILE. The Most Reverend, the present Archbishop of the Holy James of Chile, presented to the Sacred Congregation of Rites a memorandum concerning the aforementioned City of the Holy James of Chile, stating that the chaplains of that city wish to build an underground chapel for the burial of certain bodies, and to erect an altar in it, both for celebrating Mass and for performing other functions. Since the aforementioned chaplains doubt whether it is permissible for them to allow the erection and blessing of said chapel, which is located above a public thoroughfare and in the walls of which the bodies of the deceased are to be placed, they earnestly requested a declaration on this matter from the same Sacred Congregation. The same Sacred Congregation, having carefully considered the matter, declared: In the case presented, negatively. On April 21, 1873. OF LANGRES. Louis Marcellinus Xavier, Parish Priest of the Church of Saint Martin in the City of Langres, presented to the Sacred Congregation of Rites that in the aforementioned church, on November 5, 1845, a pious Sodality of the Holy Rosary was canonically established by the authority of the Bishop, with indulgences granted to the Archconfraternity. However, recently, religious of the Order of Preachers have arrived in the City of Langres, and because of the privileges of this Order, said Sodality could be suppressed to the detriment of the parish; therefore, he requested a declaration from the same Sacred Congregation.

[*Latin ed. p. 321*]

FROM THE CONGREGATION OF RITES at Camerino. Concerning the canonization of Blessed Battista Varani, daughter of Julius Caesar, Duke of Camerino, a nun of the Order of the Poor Clares, foundress of the monastery of Saint Clara in the city of Camerino.

SUPPLICATORY DOCUMENT CONCERNING THE RESUMPTION OF THE CAUSE BY THE COMMISSION.

The Varani family is ancient among the Italians, and especially in Karlova, from which have sprung men of the highest rank, with an admirable continuity and series of virtues, who, having held the highest honors and offices, both at home and in the military service, have deserved the best of the civil and Christian republic. Among the Umbri, in particular, they are held most dear and are highly esteemed, since for almost three centuries they held the city of Camerino under their rule, and increased it with the greatest glory and splendor. Descended from this lineage was Julius Caesar, Prince of Camerino, who, having married Joan Malatesta, a woman of the most illustrious family, strove to maintain and enhance the honor of his ancestors, not only through the extent of his possessions and

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military strength, but also through piety and religion. With these parents, Camilla was born on April 9th of the year 1458, who afterwards changed her name to Battista. From her very early childhood, she was imbued with the grace of heaven, revealing a pure and innocent character, which her diligent parents sought to foster in piety and the sanctity of morals. The girl responded most faithfully to the care of her parents. She demonstrated the virtues of modesty in her behavior, from which stems the highest praise of young girls. It is said that during the age in which she most often indulges in foolishness and games, she did nothing childish, and even surpassed her age in wisdom, avoiding all frivolities and directing her mind to the more diligent cultivation of virtue. Hence, Acts, Vol. XII, page 138, 21.

[*Latin ed. p. 322*]

322 CAMERINEN. Already from a young age, she displayed great piety, charity towards the poor, obedience to her parents, and a devotion to prayer. Later, she was not seduced by the flames of vice, nor was she swayed by the blandishments of harmful pleasures. When she grew a little older, having heard the sermons of the Blessed Peter Molianese, a member of the Order of Friars Minor of the Holy Cross, who spoke of the sufferings of Christ, her heart was so inflamed with charity that she began to meditate on these things constantly, to lament over them, and to seek to bring them about in herself through abstinence, fasting, and severe bodily penances. To this young woman, God added the gift of tears and a certain indescribable sweetness. But the enemy of the human race attempted to afflict her with not insignificant trials. For he instilled in some the opinion that Camerina's tears did not flow from contemplation of heavenly things, but rather from disordered movements of the soul and profane affections. However, Camerina's virtue was not overcome; on the contrary, she began a more rigorous way of life, and imposed certain rules upon herself, according to which she would henceforth conduct her life with the utmost diligence. Thus, she would rise in the early hours of the night to recite the Rosary of the Blessed Virgin with singular piety; on every Saturday, and during the vigils of the feasts of Christ and His most holy Mother, she would observe the strictest fast; she would avoid even the slightest faults; and she would often inflict punishments and flagellations upon herself. It must also be noted that, at one time, tempted by worldly pleasures, she strayed somewhat from the path of perfection. For, endowed with a singular talent and imbued with the humanities, she indulged somewhat in the study of music and poetry, and in the elegant adornment of clothing, as was customary among the nobility. However, after a short interval, God subdued her from these dangers. Indeed, when Father Francis of Urbino, a member of the Order of Friars Minor, preached to Camerina during the Lenten season, and repeatedly repeated that saying, "Fear God," she

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performed a penance proportionate to the sins of her former life.

[*Latin ed. p. 323*]

CAMERINEN. 32 S ”s t, so that whatever was profane would be immediately cast aside, she intensified her fasts and prayers, and resolved to dedicate herself to chastity for the sake of God. However, she could not carry out this resolution without the greatest difficulties and severe mental anguish. For on one hand, countless temptations of pleasure and the allurements of civil society were before her eyes; on the other hand, the splendor of riches, the arrogance of glory, and the pursuit of honors occupied the young woman's mind. To all of this was added piety towards her most loving parent. For as soon as the daughter learned of this intention, she spared no prayers, nor left any flattery unattempted, in order to dissuade her from this holy purpose. When she could not succeed by entreaties, forgetting, as it were, her piety and religion, she resorted to a harsh method, ordering her daughter to be kept in a certain chamber, and there, separated from all conversation, she was severely chastised until she obeyed her father's will. However, the girl's fortitude did not diminish: indeed, she bore the punishments and torments with the greatest courage, and moreover, she fervently prayed to God, that He might increase these sufferings for her, and thus become a sharer in the sorrows of her son. And these prayers were not in vain: for, being so afflicted by troubles, she fell ill, and soon, with increasing fever, a certain unusual lassitude began to appear in her limbs, and the life of the young woman was in danger. But she, feeling the approach of a serious illness and sensing that she was being driven towards death, lifted her eyes to heaven, and with singular words, she gave thanks to God for the great benefits He had conferred upon her, and she repeated divine praises. The illness lasted for seven months; at that time, Julius Caesar, terrified by the judgment of God, turned to milder measures, and granted his daughter the freedom to dedicate herself entirely to her heavenly bridegroom. When this was made known to the girl, her spirit was immediately lifted, hope flourished, and she soon returned to health. Therefore, having fulfilled her vow, without any delay, she went to Urbia, in order to enter the monastery of the Clarissan nuns. She was not only loved by her most devoted parents, but by the entire...

[*Latin ed. p. 324*]

324 CAMERINEN. The city of Camerin was filled with tears. For her virtue and most gentle disposition had so captivated the hearts of all, that no one could bear to think of losing her, their most beloved and cherished one. She was received with the highest honor and joy by the Duke of Urbino, who kept her with him for a few days. Afterwards, she entered the cloister of the Virgins, and there, with the consent of all and amidst great rejoicing, she put on the sacred vestments, taking the name of Baptista, whom she

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intended to imitate in her virtues, and especially in her penance. Having joined the sacred order, she understood that she was no longer her own, but was perpetually bound to divine majesty; and she resolved to be much more diligent, so that she might attain the summit of perfection, having renounced all worldly things. And she truly achieved this in a short time. She was granted such a capacity for contemplating the heavenly goods, that when she performed any duty of her religion, she seemed to be transported into the presence of God with the greatest delight. Indeed, whether she was occupied with daily tasks, or engaged in conversations with her sisters, or doing anything else, her mind seemed so detached from the body, that sometimes she was not moved by any external things, nor did she notice any sudden or serious events.

During this time, she left behind writings in which she stated that she desired nothing more than to suffer the most grievous pains for God, and she poured forth fervent prayers to obtain such a grace. And God did not fail to answer her. Not only did He inflict grievous pains upon her spirit, and subjected her to vehement demonic temptations, threats, and other evils, but He even arranged that the solemn profession, which she had desired with burning zeal, should be prevented. For her father, Julius Caesar, whose wound, still gaping and bleeding from the discord with his daughter, was a constant reminder of his grief, determined to prevent her from taking her vows, and to bring the young woman back to the city of Camerin. This caused great turmoil among the nuns, and disturbed the minds of all, and especially that of B. Baptista, who was overwhelmed with incredible sorrow and distress. After sufficient punishment had been inflicted, Julius Caesar,

[*Latin ed. p. 325*]

CAMERINO. 325. Deo ita disponente, ella sembrò aver accettato, ma solo a condizione che la figlia intraprendesse la vita monastica nel monastero di Camerino, che egli stesso aveva fondato con fondi pubblici. Pertanto, con solenne professione fatta presso le monache di Urbino nel mese di agosto del 1483, tornò a Camerino con alcune vergini compagne, e, con grande gioia di tutti, entrò nel monastero che le era stato assegnato. Lì, mantenne lo stesso stile di vita, e ricevette le stesse grazie da Dio. In quei tempi, spesso le chiedeva luce nelle tenebre, consiglio nei dubbi, rifugio nelle avversità, e aiuto nelle difficoltà, sia per sé stessa che per gli altri. Si racconta che in quel periodo le apparve più volte Santa Chiara d'Assisi, il suo angelo custode, e la stessa Madre di Dio, e che ebbe con loro conversazioni celesti, come è stato tramandato nella memoria e per iscritto. Inoltre, la storia narra che non solo contemplò i dolori di Cristo, ma anche ricevette l'ordine di scriverli a beneficio degli altri. Ella mantenne questo stile di vita senza alcuna offesa fino al suo trentacinquesimo anno, quando, essendo la Suora Paciencia, che aveva presieduto al monastero, strappata alla vita, tutti gli occhi si volsero

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verso la beata Battista, e con unanime plauso, l'Antista le annunciò. Mentre tutto sembrava procedere bene, innumerevoli sventure colpirono la beata Battista. Infatti, nel 1502, Cesare Borgia, che era chiamato Duca di Valentinois, occupò Camerino con mano potente, e prese prigionieri Giulio Cesare e i suoi figli, ad eccezione di uno che era lontano. Temendo che potessero tramare qualcosa contro di lui con incredibile ferocia, li fece uccidere tutti con la più crudele morte. Quanto dolore provò quella santissima donna per questa improvvisa e immensa calamità, è superfluo esprimere a parole. Tuttavia, la sua anima non si abbatté; anzi, imitando Cristo, che pregava per i suoi torturatori, non nutrì alcun risentimento per le offese, alcuna avversione verso gli autori, e pregò Dio con maggiore fervore affinché questo peccato fosse perdonato. Nel frattempo, la fama di quella donna si era diffusa ampiamente, e lo stesso Giulio II, Pontefice Massimo, la amava e la stimava.

[*Latin ed. p. 326*]

S26 CAMERINI!*. Her life was greatly enriched by a solemn testimony. When, in the city of Fermo, a certain monastery of the Congregation of St. Clare, of the Order of St. Francis, had been newly constructed and built, the Pope sent Blessed Baptist of Varanis and Angela of Octonibus there, to arrange and instruct the monastic life, and to remain there for one or two years, until all things were arranged according to the regulations of the Institute. Having happily fulfilled this task, she returned to the Camerinense cloister, where she always exhibited new and daily proofs of all virtues. What more vivid faith, what greater hope, what more ardent charity? To adhere only to God, to devote herself day and night to the contemplation of heavenly goods, to always desire to suffer more for the love of God, to set aside and despise all earthly things, to dedicate herself entirely, along with her daughters, to the divine will – this was her delight, this was her happiness. We have already mentioned the works of fortitude and temperance which she accomplished; but it is most clearly evident throughout her entire life that she excelled supremely in justice and prudence. In chastity, she contended with the angels, and although, for the sake of humility, she may have appeared to be defeated by them, she was not truly overcome: how much she loved poverty and obedience is proven by the fact that she relinquished her paternal home, the splendor of riches, and all royal pleasures, exchanging them most willingly for the strict observance of the Institute. Until the very end of her life, she did not deviate in the slightest from this way of life; she always maintained the same serenity of spirit and fortitude, the same constant sentiments of religion and piety; indeed, the closer she approached her end, the more she withdrew her mind from all that is fleeting and perishable, and the more she absorbed herself in heavenly beatitude. It is also worthy of mention that the Handmaid of God composed and left behind many writings, which are filled with

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heavenly wisdom and are most excellent, by which the gifts she received from God are revealed to men. With these merits accumulated, and her bodily strength already failing, on May 13, 1527, having already received the sacraments of penance, she received the most holy Body of Christ with the utmost piety of spirit, and having been provided with all the necessary assistance from our Religious Order,

[*Latin ed. p. 327*]

CAMERINEN. On the 327th day, amidst the prayers and sorrow of those present, her soul departed peacefully. She had lived 69 years. The exceptional holiness of Baptista, which she had possessed during her life and which was evident even in her death, moved the faithful to immediately proclaim her blessed, and to bestow upon her the honors of the Church and of the public. Hence, her body was buried in a distinguished place, and thirty years after her death, it was exhumed, and her bones were placed in a marble urn; and the tongue, which until the present age remains remarkably soft and red, is enclosed in a silver case. The piety of the faithful has increased because of the remarkable and countless miracles which God has wrought through her intercession even until our time. Consequently, with the unanimous consent of all, fervent prayers were addressed to Gregory XIV for the obtaining of a solemn declaration regarding her cult. This, indeed, after due consideration by the Congregation of Sacred Rites, was issued on April 7th of the year 1843, and was received with great applause and signs of joy by the citizens of Camerino. However, since God does not cease to illustrate His handmaid with new miracles, and her fame grows more and more throughout the world, as attested by the petitionary letters written by most distinguished men, which we present to the Most Eminent Cardinal, we humbly implore him to submit them to the Sacred Congregation; for it will greatly redound to the glory of God, to the benefit of the Religion, and to the spiritual good of the faithful, if the Commission is signed for the resumption of the cause; which is permitted in similar cases, as is stated by Benedict XIV in *De Canon.*, book 2, chapter 58, number 3. And together with the most distinguished men mentioned above, we humbly and earnestly implore the citizens of the cities of Camerino and Firman, and the entire Franciscan family, of which Father Bernardinus from the Crypt of the Castle, a diligent promoter of the cause, is a member. With these things presented in this supplication, our purpose is resolved.

[*Latin ed. p. 328*]

328 CAMERINO. Question: Whether the Commission for the introduction of the cause of canonization of the aforementioned Blessed Battista Varani should be signed, in its entirety and for the purpose in question. RESOLUTION. After deliberation, the Fathers, on the 7th of December, 1878, judged that: Affirmative, that is to say, the Commission should be

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signed, if it pleases the Most Holy. His Holiness, approving this judgment, deigned to sign the Commission for the introduction of the cause of canonization of Blessed Battista Varani, with his own hand, on the 19th of December, 1878. DECREE of Rome, or January. Concerning the Canonization of Blessed John Baptist de Rubeis, Confessor, Canon of the Collegiate Basilica of Saint Mary in Cosmedin. Regarding the Question: "Whether, and concerning which miracles, there exists evidence in the case and for the purpose in question." Through an ineffable providence, by which God assists His Church with opportune aids in every age, and considers the salvation of the faithful, He raised up, in the preceding century, men conspicuous for the splendor of their virtues, so that, amidst the persecutions which afflicted the Church, and those which loomed, there might be presented an example of Christian perfection, and a present support through their intercession. Among these heroes of sanctity, the Lord sent Blessed John Baptist de Rubeis to preach, especially in this City, to the poor. Burning with zeal for the souls of all men, but especially for the most wretched of the people, and those excluded from the hospitality of the Holy Gall, he employed public exhortations, and private conversations.

[*Latin ed. p. 329*]

DECREE 329: Having instructed the rural folk with remarkable and tireless patience, he converted many to Christ: for he, becoming infirm to the infirm, made all safe. Sparing no labors, and by hearing confessions, and by visiting the sick, especially those suffering from consumption, he worked diligently in cultivating the Lord's vineyard. Thus, he was an example to all in conduct, in charity, and in chastity, and especially to ministers of Christ, so that, by imitating his example, they might devote themselves to the care of souls with greater zeal, as the enemy of Christians, with more cunning, sought to undermine the truth of faith and the honesty of morals. Finally, having completely exhausted himself in the labors of the evangelical ministry, he rested in the kiss of the Lord in the sixty-fourth year of the preceding century, three days before the feast of Philip Neri, whose glory he was to celebrate in heaven, whom he had been a most devoted imitator and follower on earth. However, the fame of his sanctity, which he had attained through the excellence of his virtues and his charity towards his neighbor, spread more widely after his death, through the testimony of miracles, by which the Lord deigned to glorify this faithful minister. Indeed, all of these things, as is customary, were confirmed by the Sacred Congregation of Rites after a thorough investigation, and Pope Pius IX, may he rest in peace, solemnly declared on March 9, 1859, that John Baptist de Rubeis had deserved the glory of beatification. On the fifth Sunday after Easter of the following year, the solemnity of his beatification was celebrated. And in the days following this feast, the name of the Blessed John Baptist was illuminated by new and truly wondrous miracles, so that,

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in a certain way, the efficacy of his intercession in obtaining the health of bodies was demonstrated, of him who, in his life, had been entirely devoted to the salvation of souls. Therefore, these two remarkable miracles, brought about through the intercession of the Blessed John Baptist, were presented to the examination of the Sacred Congregation of Rites by the Postulators, first in a preliminary meeting with Cardinal Miecislaus Ledochowski, the Relator of the Cause, on March 10, 1877; and secondly, in the preparatory meetings on February 14 of this year, 1879, in the Apostolic Palace at the Vatican.

[*Latin ed. p. 330*]

330 DECREE before the Most Reverend Cardinals entrusted with the safeguarding of the Sacred Rites; furthermore, in the general Congregation held on the same day, the thirteenth of July of that year, before the Most Holy Lord, our Pope Leo XIII, in the Vatican, in which the Most Reverend Cardinal Relator proposed the following question: "Of what miracles does it consist, in the case and for the effect of which we are deliberating?" All those present, both the Consultor Fathers and the Most Reverend Cardinals, unanimously expressed their opinion. Having heard them, the Most Holy Lord, our Pope, following the pious custom of the Roman Pontiffs, before pronouncing his judgment, mindful of the gravity of the matter, earnestly encouraged all to implore the aid of divine light and counsel from God. Having carefully considered the matter and after fervent and repeated prayers, he decided to issue the final and definitive decree. Therefore, on this day, which was the third Sunday of Advent, after offering the Divine Host in the private papal chapel, he proceeded to his noble hall in the Vatican, and, having seated himself on his throne, and having summoned to him the Most Reverend Cardinal Dominic Bartolini, Prefect of the Congregation of Sacred Rites, and the Most Reverend Cardinal Miecislas Ledochowski, Relator of the Cause, and also the Reverend Father Lawrence Salvati, Promoter of the Faith, and myself, the undersigned Secretary, and with those present, he solemnly declared: "It is established that there are two miracles, divinely wrought through the intercession of the Blessed John Baptist De Rubeis, namely, the first: the instantaneous and perfect healing of Mary Sartori from an encephaloid tumor of the stomach, together with the immediate restoration of her bodily functions and the secretion of milk, which had been extinct for a long time; and the second: the instantaneous and perfect healing of Sister Mary Theresa Leonori from a scirrhous fungus of the tonsils, together with the cessation of all ulcerations." He ordered that this Decree be made public and recorded in the Acts of the Congregation of Sacred Rites. On the 14th of December, 1879. D. Cardinal Bartolini, Prefect of the Sacred Rites Congregation. In place of

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the Seal, Placidus Balli, Secretary of the Sacred Rites Congregation.

[*Latin ed. p. 331*]

331 Letters in the form of a Brief, by which it is decreed that the Feast and Office of the Immaculate Conception be celebrated throughout the entire Church with a double rite of the first class. DECREE: By the divine truths of the Scriptures and the Apostolic tradition, and by the perpetual and unanimous consent of Bishops and the faithful, the Catholic Church had long desired that the Virgin Mary, in her Conception, should declare the victory of faith against the most terrible enemy of the human race, as Peter Sode declared. This was accomplished by the Supreme Pontiff Pius IX, in the year one thousand eight hundred and fifty-four, on the sixth day before the Ides of December. Indeed, with a large assembly of the Fathers Cardinals of the Holy Roman Church, and of sacred prelates from various regions, and with the entire world rejoicing, he solemnly defined the doctrine that the Most Blessed Virgin Mary was, from the very first moment of her Conception, preserved free from all stain of original sin by a singular privilege of God, and that this was revealed by God, and therefore should be firmly and constantly believed by all the faithful. From that most auspicious day, the piety and devotion of the faithful towards the Most Holy Mother of God have increased, especially under this singular title, and have spread more widely; many churches, pious institutions, sodalities, and academies of the arts and sciences have been founded, named after her. Moved by these religious advancements, the sacred prelates offered prayers to the Most Holy Lord, our Pope Leo XIII, that on this recurring twenty-fifth anniversary from the definition of that dogma, whose solemn commemoration is observed everywhere, he would deign to elevate the Feast and Office of the Immaculate Conception to a double rite of the first class throughout the entire world. Therefore, the Most Holy Lord, our Pope, moved by his affection and veneration for the same Immaculate Virgin, hoping for future...

[*Latin ed. p. 332*]

332 DECREE: That, with the intervention of Christ, His Son and our Lord, peace may be granted to the Church, that civil society may return to order and harmony, that the faithful may embrace the increase of virtues, and that the erring may return to the path of salvation, it was judged fitting to grant indulgences for these prayers. Therefore, it was commanded that, in the future, the feast and Office of the Immaculate Conception be celebrated throughout the Church, under the double rite of the first class, together with the Mass of Vigiliae, which has already been granted in some dioceses: observing the rubrics and other customs to be observed. His Holiness also willed that Apostolic Letters be issued on this matter, in the form of a Brief. Notwithstanding any contrary provisions. On November 30, 1879. L.

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© S. D. Cardinal BARTOLINIUS, S. R. C., Prefect. Placidus Rolli, S. R. G., Secretary. DECREE. Concerning the Beatification and Canonization of the Venerable Servant of God, Joseph Benedict Cottolengo, Canon and Priest, and Founder of the Institute of the Little House of Divine Providence in Turin. In the presence of the Reverend Father Amadeo, of the Order of the Minor Brothers of Saint Francis, Capuchins, of Orvieto, appointed Postulator for the Cause of the aforementioned Venerable Servant of God, Joseph Benedict Cottolengo, and with His Eminence Aloysius Oreglia, of Saint Stephen, appointed Promoter of this Cause, the following question was proposed at the Ordinary Congregations of the Sacred Rites held today at the Vatican: "Whether the judgment rendered by the Judges delegated by the Archbishop of Turin regarding the aforementioned cult of the Venerable Servant of God, or regarding certain Decrees of Pope Urban..."

[*Latin ed. p. 333*]

DECREE 333: "The Holy Father [Pope VIII] is to confirm in this case and regarding the matter of which we are speaking." Furthermore, the Most Reverend Fathers, Prefects of the Sacred Congregation for the Preservation of Rituals, having carefully considered all matters, and having heard the voice and the written statement of the Reverend Father Lawrence Salvati, Promoter of the Holy Faith, have decided to write: "Affirmative, that is, the judgment is to be confirmed." July 5, 1879. Subsequently, a report on the aforementioned matters was presented to His Most Holy Lordship, Pope Leo XIII, by the undersigned Secretary, and His Holiness approved and confirmed the Decree of the Sacred Congregation on the 11th day of the same month and year. D. Cardinal RARTOLINIUS, Prefect of the Sacred Roman College. Placidus Halli, Secretary.

ORDER OF MINOR BROTHERS OF THE HOLY FRANCIS, CONVENTUAL: DOUBTS concerning the transfer of the Mass to funeral services for the deceased. The current Superior of the convent of Saint Anthony of Padua, of the Order of Minor Brothers of the Holy Francis, Conventual, in Brussels, has stated that many faithful, especially the poor, who are unable to afford the excessively burdensome fee for a funeral Mass in the parish church, hold funerals without the Mass; and then, so that the soul of the deceased may not be deprived of the comfort of the most august Sacrifice of the Mass, they celebrate a Mass for the repose of the soul in another church, especially among the Regular clergy. However, when the aforementioned Mass for the repose of the soul is celebrated in another church a few days after the burial of the deceased, it seems to take the place of the funeral service, the celebration of which is the rightful prerogative of the parish priest, although it is truly only the Mass on the third, seventh, or thirtieth day after the burial, or a votive Mass, that is doubtful; whether such a

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Mass...

[*Latin ed. p. 334*]

334 It is permissible to celebrate a Mass in a church that does not belong to one. Hence, the following questions, to be explained to the Sacred Congregation of Rites, were humbly submitted: QUESTIONS. Is it permissible, in a church that does not belong to one, and among religious, to sing a Mass for the repose of the soul, which the faithful request to be celebrated for deceased parents or friends after the funeral rites have been performed in the parish church, even if a funeral Mass is not celebrated in the parish church? QUESTION II. In this case, may the parents and friends be summoned or invited by letter, as is the custom in funerals? QUESTION III. Is it permissible, in a church that does not belong to one, to sing a Mass "on a feast day, or on a weekday," even if a funeral Mass is not celebrated for the same person in the parish church? The Sacred Congregation of Rites, having heard the written opinion of one of the Masters of the Apostolic Ceremonies, considered it advisable to respond to the proposed questions as follows: To I. Affirmative, provided that the rules of the rubrics are observed. To II. Nothing prevents it. To III. It is permissible. And thus it responded on May 19, 1879. D. Card. BARTOLINIUS, S. R. C., Prefect. Locum Sigilli, Placidus Ralli, S. R. C., Secretary. DECREE concerning the Beatification and Canonization of the Venerable Servant of God, Father Francis of Laculibero, a professed priest of the Order of Minor Friars of Saint Francis, of the Capuchin Observance, in Neapolitana. Whereas, on the twelfth day before the Kalends of December of the preceding year, the Sacred Congregation of Rites, by virtue of the special faculties granted to it by the Most Holy Pope Pius IX, had already granted permission, concerning the fame of the sanctity of life, virtues, and miracles, in general, of the venerable Servant of God.

[*Latin ed. p. 335*]

DECREE 335: It was determined that Father Francis of Laculibero, aforementioned, could proceed in the same Ordinary Congregation of Sacred Rites, without the intervention and vote of the Consultors, at the request of the Reverend Father Amedeus of Orvieto, a professed priest and General Postulator for the causes of beatification and canonization of the Servants of God, the Order of Minor Friars of Saint Francis, Capuchin, Eminent and Reverend Lord Cardinal Raphael Monaco of Valletta, the same cause's promoter, proposed the following question for discussion at the Ordinary Meetings of the Sacred Rites held this day at the Vatican: Namely, - Does a process constructed with Apostolic authority in the Neapolitan Court regarding the reputation of the sanctity of life, virtues, and miracles in general of the aforementioned Venerable Servant of God, have validity and relevance in this case and to the effect of what is being considered? The Most

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Eminent and Reverend Fathers, entrusted with safeguarding the sacred rites, after mature deliberation, and having heard the voice and written opinion of Reverend Father Lawrence Salvati, Promoter of the Holy Faith, judged that the answer should be: Affirmative. On December 7, 1878. These matters, faithfully reported by the undersigned secretary to the Most Holy Lord Pope Leo XIII, His Holiness approved and confirmed the decree of the Sacred Congregation on the 19th day of the same month and year. D. Cardinal Bartolini, S.R.C., Prefect. Placidus Ralli, S.R.C., Secretary. DECREE OF THE CITY AND ITS DISTRICT: By which it is granted that the feast of the Most Pure Heart of the Virgin Mary may be celebrated with greater solemnity under a double major rite. From which, the Apostolic See has approved the cult of the Most Pure Heart of the Immaculate Virgin Mary, not only in many churches of the Christian world, but also in some of this esteemed [institution].

[*Latin ed. p. 336*]

336 A decree was granted that, in honor of [the Immaculate Heart of Mary], the feast, ardently desired by the faithful, might be celebrated. Indeed, this venerable City has always shone with singular piety towards the Divine Virgin, and its patronage has always been most powerful; therefore, numerous requests, especially from the Ecclesiastical Council, were presented to the Most Reverend and Most Reverend Cardinal Raphael Monaco La Valletta, Vicar of the Holy Father, Our Lord Leo XIII, in the City, so that, through his intercession, he might obtain from the aforementioned Holy Father the permission to celebrate the feast of the Immaculate Heart of Mary in all the churches of the venerable City and its District. Furthermore, pleasing these most acceptable requests, the same Most Reverend Cardinal, Vicar of the City, in order to foster even more the ancient devotion of the Romans towards the Mother of God, implored the same Holy Father with fervent prayers, so that He might grant that the feast of the Immaculate Heart of Mary, with a double octave, on the Sunday after the Octave of the Assumption, with the Office and Mass approved by the Sacred Congregation of Rites by decree of July 21, 1855, might be observed by the entire clergy of the City and its District. His Holiness, having been informed by the undersigned Secretary of the Sacred Congregation of Rites, graciously approved of all that was requested, and also added the privilege that the aforementioned feast might be celebrated on the following free day in those years in which the assigned Sunday is hindered; with the rubrics observed. Notwithstanding any contrary matters. January 30, 1879. D. Card. BARTOLINIUSS. R. C. Prefect. L. © S. Placidus Ralli S. R. G. Secretary.

[*Latin ed. p. 337*]

337 BY PAPAL ACT. By the Most Holy Lord, Pope Leo XIII, whereby a delegation of three Cardinals is established to direct and oversee the

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publication of all the works of Saint Thomas Aquinas.

LEO PP. BY PAPAL ACT. We have declared, through Our Letters dated the Kalends of October of the preceding year, addressed to the Cardinal Prefect of the Sacred Congregation for the Propagation of the Faith, that We desire that all the works of Saint Thomas Aquinas be published completely. We stated that the purpose of this endeavor is that the excellent wisdom of the Angelic Doctor may flow far and wide, for there is nothing more suitable for suppressing the perverse opinions of our time, and nothing more efficacious for preserving the truth.

Now, however, since it seems opportune to advance the work with Our hand, We deem it necessary to decree certain things that promise a joyful hope, so that Our endeavors may be brought to the desired outcome.

First, so that this praise may not perish to Our beloved City, We wish that the aforementioned edition be reserved for the printing house of the Sacred Congregation for the Propagation of the Faith, which has already published volumes of great importance and merit for the propagation of the Christian name.

Furthermore, We wish to appoint and entrust with the primary authority three Cardinals of the Holy Roman Church to oversee this edition: namely, Antoninus de Luca, Prefect of the Sacred Congregation for the Regulation of Studies; Ioannes Simeoni, Prefect of the Sacred Congregation for the Propagation of the Faith; and Thomas Zigliara, of the Dominican Order, who is deeply learned and knowledgeable in the discipline of Saint Thomas.

These Cardinals shall have the right and power to decide and decree, in Our name, whatever they deem pertinent to the matter. Therefore, let them see to it that all the works of the Angelic Doctor are published completely, along with the most excellent interpretations of Thomas de Vio, *Acta*, Vol. XII, page 39, paragraph 22.

[*Latin ed. p. 338*]

338 By a MOTU PROPRIO, the Cardinal of Cajeta [likely referring to Cardinal Cajetan, a noted theologian] in his commentaries on the *Summa Theologica*, and Franciscus de Sylvestris of Ferrara in his *Summa contra Gentiles*, should take care and provide that the best form of the letters, the most accurate correction, and a discerning judgment in the selection of particular matters are not lacking; and finally, they should determine the order and the time at which each volume should be brought to light. As for expenses, We freely grant three thousand gold coins to cover the present necessary expenses, and We intend to provide the necessary funds in the future from the treasury of the Sacred Congregation for the Propagation of the Faith; however, whatever is received from the sale of copies should, as long as a reasonable balance exists between receipts and expenditures,

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be allocated to this purpose. If anything should be added to this sum, We command that all the increasing funds be applied to the publication of the works of those writers who most excel in illustrating the works of St. Thomas Aquinas. It is for the Cardinals whom We have named to determine which of these writers should be given priority; We only caution them that those writers should be given precedence whose doctrine appears to offer greater fruitfulness and is more suited to the needs of the times. Given at Rome, near St. Peter, on the 18th of January, 1880. In the second year of Our Pontificate. LEO PP. XLII.

[*Latin ed. p. 339*]

339 FROM THE HOLY CONGREGATION FOR THE DISPENSATION OF MARRIAGES (1) On December 14, 1878, and January 25, 1879. Henry Castro and Mary Dolores, from a certain diocese in Hispaniae, confessed their mutual love, having been captivated by each other, although they were unable to converse in person. For the young woman, having been orphaned, was under the care of an uncle who opposed the marriage of young people. However, circumstances had progressed to the point that they wished to proceed with the marriage before the parish priest. Therefore, on August 12, 1872, as the sun was already setting, the young people, accompanied by others, entered the church, intending to speak with the parish priest; from whom Henry had already unsuccessfully requested a dispensation from the customary announcements, in order to secretly enter into marriage. When they entered the sanctuary, the parish priest, perceiving what they intended to do, endeavored to avoid it and to lead them out of the sanctuary. However, despite this, the young man presented the marriage consent form; although the young woman, disturbed by the unexpected turn of events, and encouraged by Henry, uttered certain words that could imply consent. After this, Mary requested to be taken to the home of her aunt, who lived elsewhere, and there, with all present, the young woman entered the house, while the others returned home. When everything was known, the uncle...

COMPENDIUM OF THE FACTS. (1) Recall the question of the dispensation of marriage, which we discussed previously, on pages 177 and following, of this Volume XII.

[*Latin ed. p. 340*]

340. Having obtained a dispensation for marriage, she took her brother, who was living far away, and brought him to her; shortly thereafter, Henry also appeared. Again, the girl consulted with him about fleeing, but she refused, although she did eventually respond to his letters. After eight months had passed, and Henry had not found any hope of obtaining a wife, he initiated a legal process concerning the validity of the marriage, both before the Archdiocesan Tribunal and before the

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Apostolic Nunciature Tribunal. However, both tribunals issued judgments favorable to Henry. Then, Mary presented a petition to the Supreme Pontiff, requesting a dispensation from the marriage, which was both valid and not consummated, and declared herself willing to undergo a physical examination. The Archbishop C. was charged with preparing the proceedings according to the form of the Benedictine Constitution and the Instructions of the Sacred Congregation of 1840. Due to the husband's obstinacy, witnesses of good reputation from the neighborhood were examined there; Mary, however, was examined in Rome at the Curia of the Eminence of the Vicar General. The advocate for the girl argues in favor of the lack of consummation of the marriage and in support of the reasons for the dispensation. First, he demonstrates this through the testimony of a woman, the extrajudicial confession of the man, and the testimony of witnesses brought forth by the same woman. In addition to the sworn testimony of the woman, he also presented an extrajudicial confession of the man, who, in a letter sent to a certain person connected with Mary, openly speaks of a valid marriage. The value of such a written confession is confirmed by Cardinal Be, in *Disputationes*, 448, number 2: "all the more so when received in court, because canonical justice requires that an extrajudicial confession, even though made in the absence of the party, is considered sufficient in special cases, especially when the confession is written by the debtor to a third party." Furthermore, eleven witnesses were presented from the neighborhood, whose unanimous testimony testified that the woman immediately left the church, was received into the home of Avia, and then left from there to move to Galicia with her father, without remaining with Henry for even a moment.

MARY'S DEFENSE.

[*Latin ed. p. 341*]

34. DISPENSATION FROM MARRIAGE. The fact that the marriage was not consummated constitutes grounds for the petitioner to request a dispensation. Furthermore, the advocate considered that the primary reason for obtaining the dispensation was that, despite three sentences which affirmed the validity of the marriage, a serious doubt remained concerning whether the marriage was truly invalid in the eyes of conscience, and therefore a dispensation should be readily granted. (I). The advocate argued the invalidity based on the testimony of the parish priest, who asserted that he had not heard the words of consent. A second reason for the dispensation was the fraud and deception perpetrated by the husband against the bride, in which he had assured her that everything was prepared for the proper and legitimate celebration of the marriage. This deception, in a certain way, deprived the woman of the freedom to deliberate and seriously consider the most important act of marriage; which is to be condemned, according

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to the Council of Trent, Session 24, chapter 9, concerning marriage. Finally, the advocate cited other grounds for the dispensation, namely the danger of incontinence for both spouses, and also the serious animosity that had arisen between them and their families.

OBSERVATIONS OF THE DEFENDER OF THE OFFICE. The defender stated that, in order to obtain a dispensation from marriage in such cases, it is necessary to demonstrate that the spouses have never had carnal knowledge of each other, according to chapter 7 and chapter 5, paragraph 2, of the collection "De Frigiditate et Maleficiis," and also chapter 5 concerning him who has had carnal knowledge. Furthermore, the wise norms for obtaining the dispensation were established by the Constitution "Dei Miseratione" and by Instruction No. 1840 of the Sacred Congregation. However, since none of these requirements were observed in the present case, the dispensation should either be denied altogether, or no judgment should be rendered until the required documentation is completed. Both regulations require an examination by a seventh party, a relative from each side. Although this provision primarily concerns the proof of the lack of consummation of the marriage, in order to establish the impotence of one of the spouses, it is also applied to cases of dispensation (2).

(1) The petitioner raised a doubt based on the fact that the spouses were required to ratify the marriage, for the greater tranquility of both and for the knowledge of the Tribunal of Tournon, when they had already received the nuptial blessing.

(2) The defender, in his defense, maintained that the judicial process should proceed.

[*Latin ed. p. 342*]

342. DISPENSATION OF MARRIAGE. Witnesses must be heard from both sides, because the aforementioned Instruction states that "the matter concerns not only the rights of one party, but especially the dissolution of the bond of the sacrament." Therefore, in order to properly protect the bond itself, it was entirely necessary that witnesses also be examined on the part of the husband. These witnesses would have been able to respond to the accusations made against Henry, and to provide evidence regarding the grounds for the dissolution. However, the defender of the marriage, while the process was being conducted in the Archdiocesan Court, did not call witnesses for the husband, forgetting that he himself was obligated, according to the Benedictine Constitution §. 6, "to bring forward all those things which he will deem necessary for maintaining the marriage." As long as the witnesses are not heard, the process is deficient, and judgment cannot be pronounced. Furthermore, the woman did not make a clear declaration regarding the lack of consummation, as was fitting. For it is clearly stated in the scriptural passage from Constit. Dei miseratione et Instructione S. C. O. 1840, that "such a marriage, being valid and not consummated, must

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be preserved, while the matter is being considered regarding its validity and nullity, and not when the matter concerns a marriage that is valid and not consummated." Thus, the aforementioned Archbishop, both from the testimony of the spouses and from that of others, stated that the ancient practice of the Church, in all matters, was to require an oath, and even a physical examination (when dealing with a virgin), according to the manner prescribed by the Constitutions, in matters of dispensation from marriage, both valid and consummated; and thus, the Church, as a rule of canon law, maintains this disposition regarding these matters. And from ancient times, the physical examination of a woman has been conducted, by a physician, with the consent of both spouses, or by a seventh person from each side, in matters concerning the consummation of marriage. The same must be said regarding the Instruction of 1840: although it was primarily intended for cases of nullity of marriage, it fundamentally applies to the discussion of a marriage that is valid and not consummated. Therefore, the prayers of Pope Alexander VII were presented, as is fitting, to both sides, regarding the matter, so that a gracious dispensation might be granted, and the Benedictine Instruction of the Sacred Congregation for Bishops and Regular Canons was observed, and so that the process might be completed in harmony, preserving the form and the norms. It is also to be noted that it was prescribed that the parties should pray together to the same Pope, so that a dispensation might be granted, preserving the form and the norms.

It is not to be omitted that the precept was that the process should be completed in harmony, according to the Constitution, and that the parties were induced to pray to the same Pope, so that a dispensation might be granted, preserving the form and the norms. Cardinal De Luca, who discussed a matter similar to that of the power of dispensation in the case of a marriage that is valid and not consummated, under Alexander VII, reports that De Luca himself, in his work Disc. O edita fuerit, states: "It is a just thing that such prayers should be presented," and that "the matter is fundamentally about the inconsummation, therefore, it is clear that either one norm or the other must always be followed."

[*Latin ed. p. 343*]

CANON 343, concerning the dispensation of marriage, states that, in order to prove the lack of consummation, both parties must, under oath, declare that they have never been united in the flesh. The testimonies of witnesses are of no avail, since they can only testify about the day of the marriage. However, if a longer period of time has elapsed, and the parties have lived in different places, with opportunities for intercourse, the possibility of carnal union cannot be ruled out; and in such a case, a dispensation cannot be granted.

Furthermore, the confession of Henry, written in a letter to Mary's relative, is of no value; in it, he speaks of a valid marriage; and in the same

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letter, Henry also threatens to reveal certain facts that would demonstrate that Mary's future marriages would be adulterous.

Regarding the reasons for the dispensation, the defender of the marriage argues that they must be certain and reasonable, so that if these reasons are lacking, the dissolution of the marriage would be considered invalid, as Sánchez de Matrimonio, book 1, chapter 2, paragraph 16, number 6, states. Therefore, it was necessary for the woman to prove serious and irrefutable accusations against Henry; which she did not do. Therefore, in these circumstances, the woman is both the accuser and the witness, and she deserves no credibility.

Furthermore, the defender of the marriage also presents another reason based on enmity, arising between the families of the spouses. However, no one from either of these families was called to testify; and no one spoke of their own knowledge, or indicated whether the alleged events actually occurred. This, however, was overlooked, and therefore, no credence should be given to it.

Finally, another reason for rejecting the dispensation is that, in the forum of conscience, this type of marriage may be considered invalid, even though it has been declared valid by ecclesiastical judges in the external forum. For although it is possible to have an invalid marriage in the forum of conscience, which is valid in the external forum, in practice, this is of no benefit; because the Church, when judging in the contentious forum, cannot disregard a matter that originates from the same forum.

[*Latin ed. p. 344*]

344 The value of a dispensation for marriage; and it makes, as it were, white appear black, and black appear white. The defender of the bond also observes that the judgment pronounced by the Church in this matter does not regard a fact that has substance in the conscience, but a purely and simply external fact, namely, the presence of the parish priest. Therefore, if the Church, considering a fact independent of the conscience of both spouses, has judged the marriage to have been valid, it would be rash and absurd to assert that the same marriage is invalid in the forum of conscience. Furthermore, the defender of the bond argues that there is no danger of incontinence, from the very words of Maria, who, when asked whether she intended to indulge in new loves or marriages, openly replied: no. And therefore, the defender of the bond concludes, even from the danger of incontinence, that there is no reason to grant a dispensation from the marriage. With these things explained, the purpose was to determine whether it is necessary to consult [the Holy See] regarding a dispensation from a marriage that is valid but not consummated in this case.

RESOLUTION. The Sacred Congregation of Councils, after deliberation, on December 1, 1878, decided to respond: Affirmative. On January 25, 1879, the question was raised again at the request of the defender of the bond,

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with the customary formula of doubt: "Whether one should adhere to or depart from the decisions in this case," and the response was: "Adhere to the decisions."

FROM WHICH YOU MAY GATHER:

I. That in such matrimonial cases, one is not dealing with the law of either party, but primarily with the sacramental bond to be dissolved; therefore, the Apostolic See has provided "properly and prudently rules and regulations for perfecting the proceedings in order to safely inquire into the truth."

II. That these rules, therefore, are not to be considered as those that can be observed superficially or at the judge's discretion, but as those that must be esteemed as fundamental to the matter of consummation.

[*Latin ed. p. 345*]

DISPENSATION OF MARRIAGE 345: The proofs and substantial requirements of judgments; so that, if these are lacking, all proceedings are subject to nullity. III. It is prescribed that a substantial form of the process be observed, namely, that the spouses, besides the judicial deposition, swear before the judge that they have never been united in the flesh; and that an examination by seven witnesses, that is, seven relatives from each side, and an inspection of the body, be carried out. IV. Therefore, it should not be said that the ancient law (prescribing all these things) has been changed, but rather confirmed, inasmuch as, by the merciful Constitution of God and by the Instruction of the Sacred Congregation, the examination of matrimonial causes is reserved to the Fathers of Trent, or to any special Congregation of Cardinals for advisory opinion. V. In this matter, the accuser alleges the lack of the inspection of the girl's body, the oath of both spouses, and the examination of seven witnesses on the part of the man. VI. However, it must be remembered that these substantial elements of the processes in matrimonial causes can be dispensed with by the supreme authority of the Pontiff, if they pertain to discipline, provided that moral certainty of the lack of consummation can be obtained from elsewhere. VII. In this matter, the morals of the girl, who has even presented herself ready for the inspection of the body, together with the time that elapsed after the marriage contract, have provided moral certainty that the spouses have never been "alone with alone," concerning the lack of consummation of the marriage.

[*Latin ed. p. 346*]

346 CONCERNING FUNERAL RITES (i). On February 15, 1879, a SUMMARY OF FACTS. Under the date of September 24, 1876, the Confessor of the Congregation of Nuns of Saint Joseph, located in the city of V., having

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appealed to the Sacred Congregation, stated: "The Congregation of Nuns of Saint Joseph was established by the Ordinary of that Diocese. The nuns of this congregation, after having legitimately completed their novitiate, pronounce three perpetual vows of religion, and are subject to the General Superior. The Bishop has made the house of novitiate and profession immediately subject to them, and thus exempt from parochial jurisdiction, so that the Confessor, within his own house, may administer whatever is conducive to spiritual life. The nuns, novices, and girls who are educated there, do not go to the parish for hearing Mass, nor for receiving Holy Communion at Easter; and the parish priest never visits or cares for the sick among them. Furthermore, the Ordinary stated that it was his intention that the right of funerals, or burial, should belong to the Confessor. And indeed, the Confessor has, on several occasions, presided over burials, in accordance with the norms prescribed by the Apostolic See for similar cases, and has carried the body, without pomp, to the cemetery. The Bishop, when asked, replied, according to custom, that his predecessor had truly exempted the community of these sisters from the jurisdiction of the parish priest; who, however, often used to preside at the funerals. When, however, the Confessor of the Sisters of Saint Joseph has performed this function once or twice, the parish priest, it is reported, has strongly protested. However, the Confessor believes that it is permissible for him, as chaplain of the Sisters of Saint Joseph, to chant the office in their own oratory on the day of the burial (1).

(1) See the cause concerning parochial rights, reported in Volume VIII, page 528.

[*Latin ed. p. 347*]

OF FUNERAL RITES 347, concerning the deceased, and the Mass for the repose of the soul, and that the parish priest should retain the right to grant absolution at the tomb, and to convey the body of the deceased to the cemetery. A summary discussion concerning the rights of the CHAPLAIN. The Chaplain warned that the Sisters of St. Joseph, from the Constitutions of those same Sisters, who were founded in France in the year 1665, enjoy an exemption from the authority of the parish priest, even concerning burial. For the Chaplain, or Confessor specially appointed, attends to the nuns, administers the sacraments, and conveys the bodies to the tomb. Having considered these facts, he endeavored to demonstrate that such an exemption for these nuns is entirely legitimate for three reasons: because it is entirely consistent with the rights of religious orders; because it has been enough established by two hundred years of observance; and finally, because it is solemnly sanctioned in the aforementioned rules of the nuns, which have been recognized by the Bishop. Regarding the first reason, he states: that the doctrine is found in Benedict XIV, *Inst.* 105 § 2, concerning tertiaries, number 80, that nuns, by their very nature, are subject to the

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jurisdiction of the parish priests; "there," nuns enclosed within the cloister, almost all obey the authority of the Bishop: but they are entirely freed from the jurisdiction of the parish priests. From the Council of Trent, Session 25, chapter 2, concerning the rights of religious, even novices, and those living in the world who are truly members of the family of religious, or their constant companions, enjoy this privilege. But in order that someone may be considered a member of the family of religious, and may participate in their privileges, three conditions are required, according to the Council of Trent, Session 24, chapter II, concerning reforms, namely, that they actively serve in the monastery, that they reside within its walls and houses, and that they live under obedience; all of which must concur, as declared by Gregory XLII, Constitution *Circumspecta*, November 27, 1580. He states that it cannot be doubted that nuns also participate in this privilege; those who have a favorable relationship and communion of privileges with the male religious orders to which they belong, as stated by Pignat, volume 4, cons. 187, number 4. He states that it cannot be doubted that these Sisters of St. Joseph are...

[*Latin ed. p. 348*]

348 The proper rights pertaining to the burial of Nuns are these: Since Nuns, properly so called, after legitimately completing their novitiate, pronounce three perpetual vows of religion, and are subject to the General Superior, it follows that, since the privilege of exemption has been primarily granted to Religious men in those matters which do not contradict their constitutions, this same privilege has also been extended to Religious women; therefore, it follows that, by virtue of this general privilege applicable to all Nuns, these Nuns of Saint Joseph are exempt from the jurisdiction of the Parish Priest; indeed, even the novices and girls being educated within their houses should participate in and enjoy the same privilege. This is further demonstrated, because the Ordinary has made the house of the novitiate and profession immediately subject to him, etc. The Bishop, acting in this manner, cannot be said to have exceeded the limits of his power; for, by declaring this exemption, he does less than if he were to divide the parishes; or if he were to choose, for the Nuns subject to him, burial outside the parish in which they are spiritually nourished; or if, finally, he were to augment the privileges of a non-parochial church with his authority, which are easily shown to be within his power, as testified by Fagnano in book 3 of the Decretals, in the chapter "De Sequellis Fraternitatem." But, having admitted the legitimacy and justice of such an exemption, it follows that the association of the bodies of women with the burial ground pertains to their proper Parish Priest; for it is known that the rights pertaining to burial belong primarily to that one who, while the faithful were living, cared for them, and who was present with them in their death and administered the sacraments. Reijfenst. in *Ius Can. univ.*, book 3, title 28, number 16; Farg.

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de iurep., page 1, causes 1 and 2, section 2, number 9. What is affirmed concerning Nuns and their companions, can be extended to girls and to other persons who ordinarily reside in the convent, and who die there, by reason of a quasi-domicile acquired there. For, besides the domicile, they form a moral body with the Nuns, and therefore should participate in their privileges. The time spent by those being educated in the convent is considered sufficient to acquire a quasi-domicile, to which parochial rights are attached, according to what is stated by Fagnano in chapter "Significavit de Parochiis," number 34.

[*Latin ed. p. 349*]

JURISDICTION OF FUNERALS 349. The Chaplain, pointing out the importance of this exemption, stated that it was based on a custom of two hundred years. Indeed, if the individual houses of the aforementioned Congregation have, for two centuries until this day, truly enjoyed this full exemption, even with regard to burial, and if a Confessor or special Chaplain is established in each of these houses, then, given the fact that this exemption, which provides a better and more useful title concerning the world, is based on a centennial observance, and that it legitimately benefits other monasteries of the same Congregation, there is nothing to prevent it from also being invoked for this house. For this house was granted the same rights and privileges at its founding as are enjoyed by other houses of this Institute. Finally, proceeding to the third reason, the Confessor argued for the exemption based on the authority of the Bishop, both with regard to the Religious Order and with regard to this particular house, enacting the law. For this Religious Order was exempted from the jurisdiction of the parish priests at its founding two centuries ago, just as the house in question was exempted from the predecessor of the present Ordinary. Therefore, the speaker concluded, the House of the Sisters of Saint Joseph is exempt from all obligation to pay the canonical portion, or the fourth of the funeral expenses. For, according to common law, the canonical portion, or the fourth of the funeral expenses, is due to the parish priest, who undertakes the burden and labor of administering the Divine Sacraments to the living parishioners; as stated in chapter 4, book 3, decrees, title 28, concerning burials: "quia dignus est operarius mercede sua" (for the laborer is worthy of his reward). However, if the parish priest, as stated above, undertakes no labor in administering the sacraments, and if, in this case, all the sacraments are administered by the Chaplain, then he should receive no reward.

OBJECTION OF THE PARISH PRIEST. The parish priest objected that the House of Saint Joseph cannot enjoy an exemption from the parochial jurisdiction, but must be entirely subject to the rector of the parish within whose limits it is located. For, it has been decreed that religious families can enjoy such a privilege of exemption if they are truly established in a regular state. However, it is not sufficient for a family to be considered in a

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regular state merely because the individuals live together under a common rule, but it is necessary that the individuals...

[*Latin ed. p. 350*]

350 The laws concerning FUNERAL RITES apply; they shall pronounce three solemn vows from the chapter concerning the Royal Apostolic See, and they shall also live under a rule which has been approved by the Apostolic See, as stated in Canon pernicious 18, question 2. To these, the authority of Benedict XIV is added, who, in the Constitution *Quamvis super Conservationis Virginum Anglicanarum nuncupatarum*, dated April 30, 1719, after stating that the English Virgins dedicated to the care of young girls should not be considered true religious, "because the vows of poverty, obedience, and chastity which they pronounce cannot be joined with an expressed or tacit profession in any Order approved by the Apostolic See in the state of true religion," and therefore, "the vows thus pronounced should be considered simple vows, and not solemn vows," nevertheless, despite the approval and confirmation of the rules, he wished to subject them to the authority of the Ordinary, and, as long as they lived under the obedience of the Ordinary, he granted them permission to keep the Sacrament of the Eucharist in their own church, without prejudice to the rights of the parish church. Furthermore, it was decreed by the Sacred Congregation of the Council in Salerno, in the law concerning parish matters, on August 28, 1702, as testified by the Sacred Congregation in Ripana, in the law concerning parish matters, on January 25, 1873, that congregations of nuns not approved by the Apostolic See are subject to the pastor of the parish, within whose limits they exist. However, the nuns of St. Joseph V. neither pronounce perpetual and solemn vows, nor do they live under a rule which has received the approval of the Apostolic See; thus, in no way can these be truly and properly called a Regular Family. For the Bishop stated that these nuns do not pronounce absolute perpetual vows, but with this exception, which is written in their constitutions: "unless the Ordinary dispenses," or "as long as the Ordinary does not judge that a dispensation should be granted to them concerning these vows." Therefore, since it is clear that the House of St. Joseph cannot be properly numbered among Religious Families, it follows that the immunities and privileges which are reserved to properly called Regulars cannot be applied to it, nor extended to it. And it follows that they should not enjoy an exemption from the authority and jurisdiction of the Ordinary.

[*Latin ed. p. 351*]

According to Canon 351 of the Code of Canon Law, the parish priest has jurisdiction within the boundaries of his parish, including the houses located therein. Therefore, if the Sisters of St. Joseph are unable to enjoy the aforementioned privileges, or an exemption from the jurisdiction of

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the parish priest, it follows that those who are temporarily residing in the houses of religious orders will be even less able to enjoy such privileges. The parish priest refutes the custom and practice introduced by the chaplain, providing information from the Bishop; who states that the chaplain, with great mental distress, has misinterpreted the decree by which the Sisters of St. Joseph were established in the year 1665. For, whatever the Bishop may decree, no one can say that the actual Ordinary believes that these pious congregations of women are not granted by canon law the same immunities as regular canons, and in particular, immunity from the jurisdiction of the parish priest in matters of funerals. The chaplain presented examples of customs from two centuries, but none of these examples indicate such a custom. Turning to the statutes of the diocese, the parish priest states that in matters concerning rights established by sacred canons, the statutes of the diocese promulgated by the Bishops cannot cause any harm. Indeed, parochial rights flow from common law, to which Bishops cannot derogate, since the principle holds that what is inferior cannot derogate from a law promulgated by a superior. He also added that if the statutes are examined more closely, they do not contradict parochial rights, but rather, they support them to the greatest extent, as the same Bishop seems to have discovered in his information. Finally, the parish priest added that the diocesan statutes, in those articles in which they appear to grant an exemption and immunity from parochial jurisdiction to nuns, pertain to nuns who are truly and properly regular, who make solemn vows, and who live according to a rule that has been approved by the Apostolic See. With these observations made, the following points are to be considered: Question I. To whom does the right belong to perform the funeral rites and to bury the bodies of nuns in this case?

[*Latin ed. p. 352*]

352 CONCERNING FUNERALS II. Whether and to whom pertains the right of performing funeral rites and of burying the bodies of religious persons ordinarily residing in a religious house, and of those visiting there in a particular case. And, as to whether this right favors the Confessor in the third case. RESOLUTION. The Holy Congregation, after deliberation, on February 15th, decided as follows: Regarding the first and second points, it favors the Parish Priest. Regarding the third point, provision is made in the preceding sections.

FROM WHICH WE GATHER:

I. Only those religious families who truly reside in a regular state, or who have emitted three solemn vows and live according to a Rule approved by the Apostolic See, enjoy the privilege of exemption from the jurisdiction of the Parish Priest.

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II. Religious families are established solely by the authority of the Bishop; and they do not properly emit three solemn vows, which ought to be perpetual; whereas, in the case of nuns, the vows are dissolved at the will of the Bishop.

III. Parish Priests can oppose [the establishment of a new convent] and intercede against an appeal from a grant made by the Bishop, whenever the erection of a new convent infringes upon any of the parochial rights (1).

IV. Therefore, Bishops ought to take care not to infringe upon the rights of the Parish Priests when granting permission for a convent to be established within their territory (1).

Which are the parochial rights? The Abbot, in rubric Parochiis, no. 2, enumerates, among others, the following: concerning death, the administration of Extreme Unction and marriage (3); that the faithful be buried within the parish, unless they have a tomb located there (L); that parishioners attend Mass for the dead on major and feast days in the parish church; in these cases, the parochial right is reserved to the Parish Priest, according to the Constitutions and customs of the Diocese, [Cap. 2 de Parochiis]. Although some of these are more like customs than precepts.

4. That the churches of the parish receive the sacraments; that the tithes and offerings of the parishioners are paid to the Parish Priest, according to the custom of each Diocese; that the Parish Priest receives the offerings for the Eucharist, especially during Easter and other feasts.

[*Latin ed. p. 392*]

392 ENCYCLICAL LETTER. Nevertheless, the Naturalists and all those who profess to hold the well-being of the state most dear, strive to corrupt entire societies with these harmful doctrines, and they cannot escape the condemnation of falsehood. For since marriage has God as its author, and has been, from the beginning, a certain foreshadowing of the Incarnation of the Word of God, there is in it something sacred and religious, not something adventitious, but inherent, not received from men, but inherent in nature. Therefore, Our predecessors, Innocent III (1) and Honorius III (2), could not, without injustice or rashness, affirm that the Sacrament of marriage exists both among the faithful and among the unbelievers. We bear witness to this, and the monuments of antiquity, and the customs and institutions of peoples who had attained a greater degree of civilization and possessed a more refined knowledge of law and equity, testify to it: for it is clear that these were all guided and anticipated by the understanding that, when considering marriage, the form of the thing should be associated with religion and sanctity. For this reason, among them, marriages were often celebrated with religious ceremonies, with the authority of pontiffs, and with the ministry of priests. — Thus, the power of nature, the memory of origins, and the conscience of the human race have had a great influence

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on the minds of those lacking heavenly doctrine! Therefore, since marriage is, by its own nature, its own essence, and its own inherent quality, sacred, it is fitting that it be governed and regulated not by the power of princes, but by the divine authority of the Church, which alone has the right to teach concerning sacred matters. Furthermore, the dignity of the sacrament must be considered, by which Christian marriages become far more noble. But concerning the sacraments, it is only the Church that can and must, according to the will of Christ, establish and prescribe, so that it is clearly forbidden to transfer any part of its power, even the smallest, to civil rulers. Finally, great importance and great power are held by history, from which we clearly learn that the legislative and judicial power, of which we speak, has customarily been freely and constantly exercised by the Church, even in those times when princes of the state have been either consenting or conniving in this matter, acting in a foolish and absurd manner. For it is unbelievable and absurd that Christ the Lord would have condemned polygamy and the long-standing custom of repudiation by the authority of a delegate from a provincial governor or a prince of the Jews; and that the Apostle Paul would have decreed that divorces and incestuous marriages are not permitted, yielding or tacitly commanding this from Tiberius, Caligula, or Nero! Nor can it ever be persuaded to a sane mind that so many laws have been enacted by the Church concerning the sanctity and firmness of marriage (3), concerning marriages between slaves and free persons (4), with the obtained faculty (1) Chapter 8 on divorce. (2) Chapter 11 on transaltation. (3) Canons Apostolic 16, 17, 18. (4) Philosophum. Oxon. 1851.

[*Latin ed. p. 393*]

ENCYCLICAL LETTER 393 from the Roman emperors, who were enemies of the Christian name, for whom nothing was more desired than to suppress the nascent religion of Christ by force and bloodshed: especially since that law, originating from the Church, was sometimes so different from civil law that Ignatius the Martyr (1), Justin (2), Athenagoras (3), and Tertullian (4), publicly denounced as unjust or adulterous certain marriages, which, however, were favored by imperial laws.

Later, however, when all power had passed to Christian emperors, the Supreme Pontiffs and Bishops, assembled in Councils, always persevered with the same freedom and with a sense of their own legal right, in commanding or forbidding marriages, according to what they considered useful and expedient, even if it seemed to differ from civil institutions. No one is ignorant of how many impediments to marriage, such as disparity of condition, difference of cult, consanguinity, crime, and public decency, were established by the prelates of the Church in the Councils of Iliberis (5), Arles (6), Chalcedon (7), Mileve II (8), and others, which were often far removed from the decrees sanctioned by imperial law.

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Indeed, it was not only the case that the emperors did not claim power over Christian marriages, but rather they acknowledged and declared that such power, to the extent that it existed, belonged to the Church. Truly, Honorius, Theodosius the Younger, and Justinian (9) did not hesitate to admit that it was permissible for them, in matters concerning marriages, only to act as guardians and defenders of the sacred canons. And concerning the impediments to marriage, if they enacted anything by edicts, they did so not unwillingly, but because they had taken it upon themselves with the permission and authority of the Church (10); whose judgment they were accustomed to seek and reverently receive in controversies concerning the legitimacy of births (11), concerning divorce (12), and finally, concerning all matters that have some connection with the conjugal bond (13).

Therefore, in the Council of Trent, it was rightly defined that it is within the power of the Church to establish the impediments that dissolve marriage (14), and that matrimonial causes belong to the jurisdiction of ecclesiastical judges (15). Let no one be disturbed by that distinction so greatly proclaimed by the Royalists, by virtue of which they separate the matrimonial contract from the sacrament.

(1) Epistle to Polycarp, chapter 5.

(2) Apology, major, number 15.

(3) Plea for the Christians, numbers 32, 33.

(4) On the military crown, chapter 13, volume I.

(5) De Aguirre, Council of Spain, volume I, canons 13, 15, 16, 17.

(6) Hardouin, Acts, canon 11.

(7) Ibid., canon 16.

(8) Ibid., canon 17.

(9) Novels, 137.

(10) Fejer, On Marriage and Christian Institutions, Pest, 1835.

(11) Chapter 3 on ordination.

(12) Chapter 3 on divorce.

(13) Chapter 13 on the legitimacy of children.

(14) Trent, Session XXIII, canon 4.

(15) Ibid., canon 12.

[*Latin ed. p. 394*]

394. EPISTOLA ENCYCLICA: Hoc quidem est factum ex proposito, ut, dum Ecclesia servat rationes sacramenti, matrimonium sit traditum in potestatem arbitrii principum civitatis. — Nam haec distinctio, vel potius distractio, non potest approbari; cum demonstratum sit in matrimonio christiano contractum a sacramento non esse separabilem; et ideo non potest contractum verum et legitimum existere, nisi sit ipso facto sacramentum. Nam Christus Dominus dignitate sacramenti auctum est

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matrimonium; matrimonium autem est ipsum contractum, si modo sit legitime consummatum. Huc adjicitur, quod ob hanc causam matrimonium est sacramentum, quia est signum sacrum et efficax gratiae, et imago mysticarum nuptiarum Christi cum Ecclesia. Formae autem et figurae harum nuptiarum exprimentur in ipsa coniunctione summae, qua vir et mulier inter se conligantur, et hoc nihil aliud est, nisi ipsum matrimonium. Itaque patet, omne coniugium inter Christianos iustum in se et per se esse sacramentum: et nihil magis abhorret a veritate, quam esse sacramentum decus quoddam adiunctum, aut proprietatem additam extrinsecus, quae a contractu disiungi et separari possit arbitrio hominum. — Quapropter nec ratione probatur, nec testem temporum historia confirmat, potestas in matrimoniis Christianorum ad principes reipublicae iure translatam esse. Quod si in hac re alienum ius violatum est, nemo sane dicet esse ab Ecclesia violatum. O, si oracula naturalis legis, quae plena sunt falsitatis et iniustitiae, ita non essent etiam plena detrimentorum et calamitatum! Sed facile est videre quam mala coniugia perniciem attulerint; quam mala attollent universae hominum communitati. — Initio quidem lex est provisa divinitus, ut quae Deo et natura auctoribus instituta sunt, ea tanto plus utilia et salutaria experiantur, quanto magis statu nativo manent integra et incommutabilia; quoniam procreator rerum omnium Deus probe novit quid singulis institutionibus et conservationibus conveniat, et omnia voluntate et mente sua sic ordinavit, ut sua singula exitum convenientem habeant. Sed si ordinem rerum providentissime constitutum hominum temeritas aut improbitas mutare et perturbare velit, tum vero etiam sapientissima et utilissima instituta obesse incipiunt, aut prodesse desinunt, vel vim iuvandi mutatione amittunt, vel Deus ipse poenas malit de superbia et audacia mortalium sumere. Iamvero qui sacrum esse matrimonium negant, et omni despolitum sanctitate in genus rerum profanarum iaciunt, ii fundamenta naturae pervertunt, et divinae providentiae consiliis repugnant, et, quantum potest, instituta demoliuntur. Quapropter mirum esse non!

[*Latin ed. p. 395*]

ENCYCLICAL LETTER 395, from such insane and impious endeavors, a crop of evils arises, which is most pernicious to the salvation of souls and the well-being of the republic. If one considers to what end the divine institution of marriage pertains, it will be most evident that God intended to include within it the most abundant sources of public utility and salvation. And indeed, besides the fact that they contribute to the propagation of the human race, marriages also serve to make the lives of spouses happier and more blessed; and this occurs through many reasons, namely, mutual assistance in meeting needs, constant and faithful love, the communion of all goods, and the heavenly grace which flows from the sacrament. Moreover, they can greatly contribute to the well-being of families; for as long as

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marriages are in harmony with nature and are suitably in accordance with the plans of God, they will certainly be able to strengthen the harmony of souls between parents, to protect the good upbringing of children, to temper paternal authority by the example of divine power, and to make children obedient to their parents, and servants to their masters. From such unions, the state can rightly expect a citizenry that is properly educated, accustomed to reverence and love of God, and which understands that it is right and proper to obey those who govern, to love all, and to harm no one. These fruits are so great and so excellent, and they have been produced for as long as marriage has preserved the sacred duties of unity, of permanence, and of fruitfulness, from which all its power derives, and which make it fruitful and salutary; and there is no doubt that similar and equal results would have been produced, if faith had always and everywhere been subject to the Church, which is the most faithful guardian and avenger of these duties. But because, now, human law is often placed in the place of natural and divine law, not only has the very essence and concept of marriage, which it had impressed and almost inscribed upon the minds of men, begun to be corrupted; but even in Christian marriages, that great source of good has been greatly weakened by human vice. For what good can marriages bring to society, if Christian religion is removed, which is the parent of all good things, and which fosters the greatest virtues, inciting and urging to all that is honorable and excellent? Therefore, when these things are removed and rejected, marriages must be reduced to the servitude of a depraved human nature and the worst of passions, with only a weak defense of natural decency. From this source, many evils have flowed, not only into private families, but also into the state. For when the fear of God is banished, and the alleviation of cares, which is found nowhere else but in the Christian religion, is removed, it often happens that...

[*Latin ed. p. 396*]

396 An encyclical letter is, in fact, inclined to make the duties and obligations of marriage seem scarcely bearable; and many wish to be freed from the bond, which they consider to be both a human right and a natural connection, if a difference of character, or discord, or if the faith is violated by either party, or if the consent of both is lacking, or if other causes suggest that it is necessary to be released. And if, perhaps, such audacity of wills is prohibited by law, then they cry out that these are unjust laws, inhuman, and contrary to the rights of free citizens; therefore, it must be seen that, with those ancient laws abolished, divorce should be permitted by a more humane law. But our legislators of this time, while claiming to be steadfast and devoted to the same principles of law, cannot defend themselves from that wickedness of men, which we have mentioned, even if they wish to; therefore, it is necessary to yield to the times and grant the possibility of divorce.

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And history itself declares the same. For example, at the end of the last century, in that not so much disturbance as conflagration of France, when all society, having removed God, was profaned, it was then decided that the separations of spouses should be considered lawful by law. But many now wish to renew those same laws, because they want to remove God and the Church from the midst of human society; foolishly thinking that the remedy for the ultimate corruption of morals should be sought in such laws. But truly, how much evil divorce contains in itself, it is hardly necessary to say. For their cause makes marital bonds mutable; mutual affection is weakened; harmful infidelity is given incentives; harm is done to the upbringing and education of children; an opportunity is given to disrupt domestic societies; the seeds of discord are sown among families; and the dignity of women is diminished and suppressed, who are in danger of being considered abandoned if they have served the lust of men.

And since nothing is so effective in destroying families and weakening the strength of kingdoms as the corruption of morals, it is easily seen that divorce, which arises from the depraved morals of the people, is most hostile to the prosperity of families and states, and, as experience testifies, opens the door and paves the way to more vicious private and public customs.

And this evil will be seen to be much greater if we consider that there will be no restraints sufficient to restrain, once granted, the possibility of divorce within certain, or previously established, limits. The power of examples is great, greater than that of desires: these incentives must be such that the desire for divorce will increasingly invade the minds of many every day, as if a disease spread by contagion, or a flood of water, overflowing the embankments.

[*Latin ed. p. 397*]

ENCYCLICAL LETTER 397. These things are certainly clear in themselves; but the memory of past events makes them even clearer. As soon as the law began to favor divorce, discord, licentiousness, and divisions greatly increased; and such was the resulting depravity of morals that even those who had been defenders of such divisions came to regret it; and it was feared that, unless a remedy contrary to the law were sought promptly, the republic itself would be plunged headlong into its own ruin. The ancient Romans, it is said, were not averse to the first examples of divorce; but soon, the sense of decency began to fade, modesty in controlling desires disappeared, and the bond of marriage was so violated by license that it seemed to resemble what some have written, that women were accustomed to count the years not by the change of consuls, but by the change of husbands. In the same way, among Protestants, laws were indeed enacted at first, allowing divorce for certain reasons, and not a few; but, because of the similarity of circumstances, it was discovered that these laws had

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increased to such an extent among Germans, Americans, and others, that those who were not foolish considered the depravity of morals to be infinite and the recklessness of the laws intolerable. Nor was it otherwise in countries bearing the name of Catholic; in which, whenever a place was given to the separation of spouses, the multitude of inconveniences that followed far outweighed the opinion of legislators. For the wickedness of many was to turn their minds to every vice and fraud, and, through cruelty employed through injuries, through adulteries, to fabricate causes for dissolving what was inviolable, the bond of marriage; and this was done with such detriment to public decency that all men judged it necessary to devote themselves to amending the laws as soon as possible. And who will doubt that the laws favoring divorce will have equally miserable and calamitous consequences, should they perhaps be revived in our time? It is not, indeed, within the power of human laws or decrees to change the natural order and conformation of things; therefore, they are unwise who interpret public happiness as those who think that the natural order of marriage can be perverted with impunity; and, putting aside all sanctity, both of religion and of the Sacrament, they seem to desire to corrupt and deform marriages more than the customs of the pagans themselves were accustomed to. Therefore, unless plans are changed, families and human society must always fear that they will be cast into that struggle and distinction of all things, which the infamous groups of Socialists and Communists have long proposed. Therefore, it is clear how...

[*Latin ed. p. 398*]

398. It is utterly absurd and foolish to expect public well-being to arise from divorces, which, rather, are a certain ruin for society. Therefore, it must be acknowledged that the Catholic Church has served the common good of all peoples admirably, always being intent on defending the sanctity and perpetuity of marriage; and great gratitude is due to her for having, for over a hundred years, openly condemned many sins through her laws (1); for having excommunicated the most detestable heresy of the Protestants concerning divorces and repudiations (2); for having condemned the customary practice of the Greeks of dissolving marriages in many ways (3); for having decreed that marriages are invalid if begun with the condition that they may be dissolved at some time (4); and finally, for having, even from the earliest times, rejected imperial laws that would have been pernicious in permitting divorces and repudiations (5). – Moreover, those supreme Pontiffs who, on many occasions, resisted the most powerful princes, threatening them that divorces obtained from them would not be considered valid by the Church, are to be esteemed not only as defenders of the safety of religion, but also as defenders of the welfare of nations. In this regard, posterity will marvel at the documents of unwavering spirit published by Nicholas I against Lothar; by Urban II and Paschal II

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against Philip I, King of the Franks; by Celestine III and Innocent III against Philip II, Prince of France; by Clement VII and Paul III against Henry VIII; and finally, by the most holy and most courageous Pope Pius VII against Napoleon I, who rejoiced in the restoration of order and the magnitude of his empire. Given these things, all governors and administrators of public affairs, if they wished to follow reason, wisdom, and the very welfare of the people, should have preferred to keep the sacred laws of marriage intact, and to avail themselves of the Church's aid in protecting morals and the prosperity of families, rather than to call the Church into suspicion of enmity, and to subject her to a false and unjust accusation of violating civil law. And even more so, because the Catholic Church, in no matter can she decline from the duty of religion and the defense of her rights, is most often inclined to kindness and leniency in all things that concern her safety, the integrity of her rights, and the sanctity of her offices (1) Pius VI, Epistula ad Episcopos Lucenses, 28 Maii 1793. – Pius VII, Litterae Encyclicae, die 17 Februarii 1809, et Constitutiones, die 19 Iulii 1817. – Pius VIII, Litterae Encyclicae, die XVI, 29 Maii 1829, et Constitutiones. (2) Council of Trent, Session XXIV, canons 5 and 7. (3) Council of Florence, and Instruction of Eugene IV to the Armenians. – Benedict XIV, Constitution Etsi Pastoralis, 6 Maii 1742. (4) Chapter 7 of Augustine, De Nuptiis, 15 Augusti 1832. (5) Jerome, Epistola ad Oceanum, 79; Ambrose, Lib. VIII, cap. 16, in Luke 22; Augustine, De Nuptiis, cap. 10.

[*Latin ed. p. 399*]

ENCYCLICAL LETTER 399 are one. For this reason, it has never decreed anything concerning marriages without considering the state of the community and the conditions of the people; nor has it ever, when just and weighty reasons urged it, failed to mitigate its own laws to the extent possible.

Furthermore, it does not ignore, nor does it fear, that the sacrament of marriage, since it is also directed towards the preservation and growth of human society, has a connection with those very human affairs which, while resulting from marriage, are of a civil nature: concerning which affairs those who govern the republic make laws and render judgments. However, no one doubts that the Founder of the Church, Jesus Christ, willed that the sacramental power be distinct from the civil power, and free and expeditious in carrying out its own affairs; with this addition, that for the benefit of both, and for the good of all men, a connection and harmony should exist between them, so that in those matters which, although of different natures, are subject to common law and judgment, the one, to which human things are entrusted, should depend appropriately and congruently on the other, to which heavenly things are entrusted. Such a composition, and almost a harmony, not only contains the best arrangement of both powers, but also the most suitable and effective

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means of helping the human race in that which pertains to the actions of life and to the hope of eternal salvation. For just as human intelligence, as we have shown in previous Encyclical Letters, if it is in agreement with Christian faith, is greatly ennobled and becomes much more fortified against errors, and in turn, faith receives no small support from intelligence; so likewise, if civil authority agrees amicably with the sacred power of the Church, a great increase in benefit is necessary for both. The dignity of one is increased, and, with religion preceding, there will never be an unjust command; to the other, assistance for protection and defense in public is provided, for the good of the faithful. Therefore, moved by these considerations, we earnestly urge, both those who are diligently striving for it, and those who are vehemently pursuing it, to join princes together in concord and friendship; and with paternal benevolence, we extend our hand, offering the aid of Our supreme power, which is all the more necessary at this time, inasmuch as the right to command is weakened in the opinion of men, as if wounded. With minds already inflamed by a presumptuous liberty, and with every form of government, even the most legitimate, being detested with a wicked audacity, public safety demands that the forces of both powers be joined together to prevent the damages which threaten not only the Church, but also the very civil society itself.

[*Latin ed. p. 400*]

400. Since we strongly encourage the union of wills and earnestly pray to God, the Prince of Peace, that He may instill the love of concord in the hearts of all men, we cannot help but urge you, Venerable Brothers, to further encourage your zeal, your study, and your vigilance, which we know to be exceedingly great in you. To the extent that it is possible through contention and authority, strive to ensure that the integrity and purity of the doctrine entrusted to you among the nations remains intact, the doctrine which the Lord Christ and the interpreters of the divine will, the Apostles, handed down, which the Catholic Church has religiously preserved, and which Christ commanded to be preserved by the faithful throughout all ages. Devote your principal efforts to ensuring that the people are enriched by the precepts of Christian wisdom, and that they always remember that marriage was established from the beginning not by human will, but by the authority and ordinance of God, and that this law is absolutely that of one to one. Furthermore, that Christ, the Author of the New Covenant, has, by the very nature of the Sacrament, transferred this to His Church, and that, with regard to the bond itself, He has conferred upon His Church the power to legislate and to judge. In this matter, it must be carefully guarded against the minds being led astray by the fallacious conclusions of adversaries, who would seek to deprive the Church of such authority. Similarly, it must be made clear to all that if any union of a man and a woman is contracted among the faithful without the Sacrament, it lacks the force and essence

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of a true marriage; and although it may be carried out in accordance with civil laws, it cannot be more than a rite or custom, introduced by civil law; but civil law can only regulate and administer matters which marriage brings about in a civil sense, and it is manifest that these things cannot be generated unless a true and legitimate cause, namely, the nuptial bond, exists. All these things must be thoroughly understood by those entering into marriage, and they must be proven and impressed upon their minds, so that they may act in accordance with these principles in this matter; the Church does not disapprove, but desires that the effects of marriage be preserved in all places, and that nothing be done to the detriment of the children. In such great confusion of opinions, which are spreading ever further daily, it is also necessary to know that no one has the power to dissolve the bond of marriage among Christians, by reason or by decree; therefore, those who, whether for any reason whatsoever, intend to enter into a new marriage before the first has been dissolved by death, are manifestly guilty of a grave crime. If, however, the situation has reached such a point that it seems impossible to bear any longer, then the Church allows one to separate from the other, using the appropriate remedies and means to restore harmony.

[*Latin ed. p. 401*]

EPISCOPAL LETTER 401: Considering the circumstances, We strive to mitigate the inconveniences of the matrimonial state; and We never cease to labor, nor do We despair, in seeking to restore concord. — However, these are extreme cases; it would be easier to avoid them if spouses, not driven by lust, but guided by prudent considerations regarding the duties of marriage and the noblest reasons for marriage, approached the sacrament with a proper understanding; and if they did not precede marriage with a series of sins, thereby provoking the wrath of God. And to encompass all in a few words, marriages will enjoy peace and stability only if spouses draw their spirit and life from the virtue of religion, which imparts a strong and unwavering spirit; which enables them to bear, not only with moderation, but even with joy, vices, if any exist in the individuals, as well as differences in character and temperament, the burdens of motherhood, the laborious care of children's education, the hardships of life together, and adverse circumstances. It must also be noted that marriages should not be readily entered into with those who are not of the Catholic faith; for it is scarcely to be hoped that those whose minds differ from the discipline of the religion will be harmonious in other matters. Indeed, such unions are to be regarded with the utmost abhorrence, because they provide an opportunity for illicit association and the sharing of sacred things, they create a danger to the faith of the Catholic spouse, they are an obstacle to the proper upbringing of children, and they often lead to the minds becoming accustomed to treating all religions as equal, obliterating the distinction between truth

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and falsehood. — Finally, since We understand that it is contrary to Our charity to leave anyone outside the authority of faith and the piety of Your Eminences, We commend to you, Venerable Brothers, those who, being completely absorbed by the passions, and utterly forgetful of their salvation, live in a manner contrary to divine law, and are not united by the bond of a legitimate marriage. Let your diligent efforts be directed towards bringing these people back to the path of duty; and, through you, and through the intervention of good men, strive in every way to ensure that they realize the wickedness of their actions, that they make amends for their sins, and that they are encouraged to enter into a proper marriage according to the Catholic rite. These documents and precepts concerning Christian marriage, which We have deemed it necessary to communicate to you, Venerable Brothers, through these letters, you easily see, pertain greatly not only to the preservation of civil society, but also to the eternal salvation of souls. — May God grant that, as these matters are of such importance and weight, they may everywhere find minds that are more willing and eager to obey. For this purpose, let us all, with humble and fervent prayer, implore the help of the Blessed Virgin Mary, Immaculate, who, by stirring up minds to obedience to the faith, may be our Mother and our Helper. And with no less devotion, let us invoke the intercession of Saint Peter. (Acts, Vol. XII, p. 401, 26)

[*Latin ed. p. 402*]

402 We earnestly implore you, Paul, most blessed, Prince of the Apostles, conqueror of superstition, teacher of truth, that you may defend the human race with the firmest protection against the resurgence of errors. In the meantime, as a pledge of the heavenly gifts and a witness to Our singular benevolence, We impart, from the heart, the Apostolic Blessing to you all, Venerable Brothers, and to the peoples entrusted to your care. Given at Rome, at St. Peter's, on the 10th day of February, in the year 1880, in the second year of Our Pontificate. LEO XIII, Pope.

[*Latin ed. p. 403*]

403 FROM THE SACRED CONGREGATION CONCERNING MARRIAGE, dated May 17, 1879, and February 3, 1880. Prince Albert G., aged 20, and Duchess Maria I. I., aged 18, having become acquainted with each other personally, in June of 1869, together with the girl's mother, visited the town where Albert's father then resided. While there, the betrothed pledged their mutual fidelity for the future marriage. The mother and daughter then returned to their own home, accompanied by Prince Albert, who remained with them throughout the entire summer. However, this kind of association did not foster mutual affection, but rather alienated the young woman's mind. For he, presenting himself as lacking in cultured education, and suffering from a foul odor due to a dental ulcer, offended

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the young woman, causing disgust and aversion; and she, for all her strength, pleaded with her mother to prevent the marriage from taking place. Nevertheless, the promise given to the noble princes, and the fear, born of her ailing health, that she would leave her daughter an orphan, pressed so heavily upon the widowed mother, that although Maria continued to feel aversion, yet, urged strongly by her mother, the marriage was celebrated on September 21, 1809. Barely fifteen days later, the girl wrote a letter filled with complaints to her mother, in which she openly expressed her abhorrence of the marriage bond, earnestly wishing that such a bond would be broken. At the end of January 1870, heavily pregnant, Maria, abandoning her marital home, returned to her mother; moreover, she did not heed even the exhortations of the Holy Father, Pope Pius IX. SUMMARY OF THE FACTS.

[*Latin ed. p. 404*]

404. Neither the highest dignitaries of Matrimony nor of other matters could have restored harmony between this couple. At the appropriate time, she gave birth to a son, whom her father-in-law, acting as guardian, took from the sacred font, and he kept him close, resisting the husband's efforts to see him, even demanding the child's return through legal means. In the year 1877, Princess Maria presented a petition to the Supreme Pontiff, requesting the dissolution of the marriage, alleging coercion and fear; she claimed that these had been inflicted upon her by her mother. In order to complete the legal proceedings, the Ordinary Delegate arranged for Prince Albert to be summoned to court for examination. However, despite repeated attempts and the expiration of deadlines, Prince Albert failed to appear for the examination, and the judge declared him contumacious, transmitting the legal documents to the Sacred Congregation with a detailed report. A special congregation of five Cardinals was convened to examine the case, in order to resolve the following question, which was a point of contention between the defender of the marriage bond and the advocate for the plaintiff: "Does a nullity of the marriage exist in this case?" Shortly after the commission of Prince Albert, a lawyer was appointed to defend him, and he was granted the authority to argue against two other points raised by the Prince's advocate. Therefore, on May 17, 1879, the controversy was presented, and after a lively discussion of the issues, the Cardinals decided to give a response: "Affirmative." The defender of the marriage bond appealed this decision; however, the Holy Fathers, by the merciful grace of God, (1) decided to establish a new congregation of Cardinals. For the second proposition of the case, January 3, 1880, was set, with the usual formula of questioning: "Should we uphold (1) These provisions in the Constitution regarding matrimonial cases, particularly § 14, which states: 'If a particular congregation has been assigned to a matrimonial cause, the process shall be conducted according to the usual procedures.'

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You have this Constitution in Volume IV, page 346. The congregation assigned to this particular cause is..."

[*Latin ed. p. 405*]

MATRIMONII 405 or, the possibility of retracting from decisions – Even to the defenders of the Prince, the faculty remained of arguing on the day of the presentation of the cause, concerning another doubtful matter – Whether and how, *during a legal dispute*, one should consider the education and instruction of the son. A SYNOPTIC DISCUSSION: DEFENSE OF THE WOMAN. The defender presented this argument, divided into seven sections, stating first that he could not omit to mention that the Prince and his supporters had accused him, as if he had hastily expressed an opinion unfavorable to the Prince on May 17th. For two years had already passed since the plaintiff had instituted the cause concerning the nullity of the marriage; six of the Prince's men had been summoned, but in vain, for when called to a certain place, they would flee to another. However, it should not be forgotten that, according to Innocent III in chapter 5, section, that in a legal dispute, the contumacy of one spouse does not impede the rendering of a judgment. In the second section, he stated that it could not be said that a son is illegitimate, if the marriage is dissolved by nullity. For, according to the law, the sons are considered legitimate, once the marriage is dissolved, provided that at least one of the spouses acted in good faith, as stated by Alexander III in chapter 2, which states who are legitimate sons. Reiffenst. book 4, title 17: which, in favor of legitimacy, is always presumed, unless the contrary is proven, as stated by Reiffenst. in the aforementioned passage, and by the Civil Code of the French, articles 201 and 202. Regarding good faith, it cannot be doubted, because the young woman, having been converted to the Catholic faith shortly before the marriage, did not know the canonical laws concerning marriages. He also refuted the Prince's petition, which claimed that the son did not follow his father's custody, and that it was the time for the father and the Prince to reclaim their authority. First of all, he stated, this is foreign to the "cause of nullity of the marriage"; then, he pointed out that the son could not be returned to the father because of the latter's loose way of living, and because of the depraved morals of the same. And nothing certain is established in law regarding the custody of children, but it is left to the judge's discretion whether...

[*Latin ed. p. 406*]

406. Quod ad pueros pertinet, oportet considerare si melius sit ut maneant cum patre an cum matre. Diclianus et Maximus, in *Institutiones*, lib. 1, codex, de divortio, affirmant: *post divortium, cum liberi morari vel educari debeant*, et auctor, in eodem titulo, §. illud, concedit matrem et aviam eodem iure. Quidquid ergo ex matrimonio et eius

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dissolutione sequitur, prout iura patris, custodia prolis vel educatio, solum potestatis saecularis definitioni subiectum esse videtur. Hinc nihil mirum quod Sanctissimi Patres, in prima actione, censuerint se ab hujusmodi controversia abstinendum esse. Nec eiusmodi quaestio in secunda actione excitari potest, quia in iudicio non comprehenditur: dum Emi Patres ad solum dubium super nullitatem rescripserunt: « affirmative ». Et quia iudices appellationis aliud disputare nequeant, quam quod primo coram magistratu prioris actionis deductum est, secundo quod iam tunc deductum, deinde per appellationem ad novos iudices allatum deprehenditur. Tertium, aggrediendo caput ex universa adiunctorum congerie matrimonii, nullitatem deducit ita arguendo: matrimonium sine consensu consistere non potest, nec consensum sine libertate. Si quid igitur libertati desit, non rescinditur matrimonium, sed ab initio non contractum habetur, iuxta Alexandri III sententiam in cap. I de sponsalibus: « Matrimonium autem solo consensu contrahitur* et ubi de ipso quaeritur* plena debet securitate gaudere cuius est animus indagandus* ne per timorem dicat sibi placere quod odit... » Nec vim corpori allatam nec magnam formidinem probandam esse affirmant, ubi constet liberum consensum quomodocumque defuisse; multa enim libertatem violant, quae ad germanam vim ac metum non pertinent. Violentas igitur habendas, ait, non modo machinationes et dolos, sed etiam preces quae animum deflectere valeant, auctoritate Cosci, de separatis, lib. 1, cap. 55, n. 21. Sacra Congregatio Consistorialis in Parisien, matr. diei 25 Iunii 1864, et aliorum. Quod si aliquis obiiciat perperam sacramentum solvi ex causis quae ad civiles contractus solvendos non sufficerent: respondere sat erit quod in matrimonio longe maior quam in aliis.

[*Latin ed. p. 407*]

MATRIMONII 407. Ad validitatem matrimonii, libertas est necessaria, ut testatur Sánchez, *lib. 4, disp. 6, n. 2*, et Cosci, *de sep. th., U. 1, c. 8, n. 93*. Verum est enim matrimonium vinculum vitae coniugalis, quod, si partes recederent, non dissolvi posset, et quod, si coactus fuerit, mala multa generare potest, in discrimen corporis et animae. (1) Ex his in iure expositis, manifestum est quod in hoc casu libertas et voluntas desiderabantur, ex tota rerum facie et ex publica opinione. Nam principes matrimonii, consiliatores Alberti et Mariae, magna auctoritate familiam moderabant, tum ex amicitia, tum ex consanguinitate, tum ex iure tutelae. Ita ut nuptias puellae aliis interdicerunt, eamque ad nuptias cum Alberto impellerunt; unde omnibus persuasum fuit non libere, sed imperio eorum, puellam ad matrimonium coactam esse. Denique, vix inito matrimonio, fuga meditatur: tertio die fugit, et odium magis ad coniugem accrescit; murum transilit, et cum ad suos fugere non possit, ad alienos fugit; quattuor mensibus elapso, mater, velit nolit, transfugam recipere coacta est. Atestatur numquam apud coniugem manere voluisse, quia illum aversabatur, et cum nihil novum

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post matrimonium acciderit, horruisse eum ante matrimonium concludit, et non libere, sed coacta, nuptias inisse. Rursus, probationem coactionis, magna multitudo testium, maxima rerum copia, et mirabilis deponentium consensus, affert, dicit defensor. Testes enim omnes honestate et insigni nobilitate praediti sunt: quorum alii regia dignitate vel cognatione utuntur, alii pietate apprime commendantur, et ad religiosos ordines pertinent. Unde concludit, his omnibus amplam fidem praebendam esse, qui de puellae aversione, de aversionis causis, de vi illata, de moerore et precibus deposuerunt. (1) Ad rem, Schmalzgrueber, *lib. 4, tit. 1, § 394*, dicit: "Quidnam per iniuriam fieri posset, si metu?". Praeterea, ratio quae matrimonia tali contracta valida esse facit, est quia, si contracta sunt per gravem metum, plus rescindi possunt, quam si libere contracta sunt; et hinc dispar est ratio matrimoniorum coactorum, quae infelices exitus habere soleant, et aliorum contractuum. Nam illa, auctoritate iudicis, rescindi possunt; consequenter, necesse non fuit ut metus grave eosdem irritet.

[*Latin ed. p. 408*]

408 MARRIAGES! But the witnesses of Prince Albert, the orator declared, demonstrate nothing other than absurdities or an unjust will. Therefore, omitting others, he speaks of the testimony of the spouses; among whom no suspicion of collusion can be conceived, since it is evident that the actress has been subjected, for almost two years now, to numerous inducements, deceptions, and vexations by the husband in this trial. Then, the Prince himself confessed that, having observed a certain coldness in the girl from the beginning to the end, he had already considered sending a "messenger" to her regarding the marriage. Therefore, the orator concluded, the nullity of the marriage can be demonstrated either by the testimony of the witnesses or by the testimony of the spouses, but the resistance should not be attributed to the Prince, but to others who act in his name, in order to pursue their own advantages. In the fourth section, speaking on behalf of the actress, the orator begins to demonstrate that the girl's aversion to the man was not only not to be wondered at, but was entirely in accordance with her nature and her mind. Indeed, while the girl possesses all the graces of urbanity, the man is described as having truculent eyes, a sad countenance, an unkempt appearance, dirty hands, and a rude manner of speaking; and he added that in the year 1869, he had a terrible skin eruption, and suffered from a foul-smelling dental fistula, although he may have recovered from that ailment later. Having established this aversion of mind, and demonstrating the violence involved in the law, he cites the authority of the Rota, December 326, correction, Louis, number 7, and following: "By deducing probability from excessive aversion and repugnance... which, as they declare, are alien to the mind of the Marchioness regarding the marriage contracts (1. Si quis §. plerique ff. de releg. et sumpt.), thus removing consent from the contracts." The

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orator demonstrates that the girl's will was violated by the mother's constant threats, which instilled in her an unbearable fear, relying on the testimonies of witnesses. But the mere indignation of a parent, a cautious offspring, so affects the freedom that consent is considered lacking in law, as Sánchez states in book 4 on marriages, section 6, number 14: "For if she were to hold a prolonged and probable indignation, and always to consider her father or husband to be very displeased and indignant, and to constantly bring this up, she would object to..."

[*Latin ed. p. 409*]

MATRIMONII 409 » Etiam, mihi videtur esse timor qui viri constantem afficit. > Cum de timore reverentiali agatur, in tali coactu, conditiones a iure requisitae apparent, ut scribentes dicunt. Qui enim coactionem a parente perpetrat, graviore impetu reverentiae et affectus afficitur, et ideo omne periculum libertatem laedit, si cum reverentia coniungitur. Rota dec. 491 n. 8 cor. Royas « in his terminis sufficit timor reverentialis iuncto periculo mali gravis, probabiliter opinati ex sola parentis indignatione. » Haec omnia magis attendenda sunt cum agitur non de viro, sed de puella, in minori aetate constituta, matri firmo characteri praedita et necti nescia, cuius iussibus semper paruisse affirmant testes. Praeter omnia haec, ait orator, omne investigatio de causa timoris supervacua fit, cum mulier per lacrimas et protestationes vim se pati perpetuo et vehementer significaverit. Sed in iure etiam timor levis admittitur, eo quod unum quaeritur: libertas, quae si desit, absit de causa dimicare, et in iure nihil interest, quo metu quis compulsus sit, si vere et certo constet de contraria voluntate. Igitur si mulier se coactam dixit, si quoad potuit resistit, sufficit ut matrimonium coactum censeatur (1). In themate, testes omnes de lacrimis actricis, trepidatione, et vigiliis una voce deponunt. Ideo, ait orator, afflicta mulier, quamvis imperio et necessitate deiecta, necti tamen nequi et ad novissimum usque momentum protestata est, se ab his nuptiis abhorrere. Ex quibus, orator concludit matrimonium invalidum fuisse, quod solo consensu perficitur. Transiens orator ab iis quae matrimonium praecesserant, ad ea quae in celebratione matrimonii et coniunctione intercesserunt, ex his etiam probari violentiam in quinto capite demonstrat. Pro nihilo habenda est, in primis, depositio parochi, qui innuit libertatem puellae, eo quod ab eodem petiit utrum "lis, tam praecedentibus matrimonium, cap. 8 n. hi u. Ex parte vero mulieris (1) Ad rem Cosci de sep. th. I. » quam ipsius celebrationis actum comitabantur, testes dicitur probaverunt timorem, si deponunt de ipsius lacrymis et querelis.

[*Latin ed. p. 410*]

410. The spouses should kneel before the altar during the marriage ceremony. For, although she patiently endured the violence inflicted upon her, this does not mean that her fear ceased, as testified by the Rota, in

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Decree 371, paragraph 10 and following, section 1, volume 1, record. The testimony of the parish priest appears to disregard the truth; while other witnesses testified that the girl appeared pale and deeply distressed during the marriage ceremony, so much so that she told her mother-in-law, "I seem to be being led to the funeral pyre rather than to the altar." Furthermore, there was no lack of violence during the first marital act; for the girl had to yield to the stubborn will of her mother, who did not abandon her daughter, even though she was agitated and resisting, until the very end. Thus, witnesses affirm that, a few hours later, the girl was heard crying out: "How miserable I am!" In the sixth chapter, the advocate demonstrates that no defense can be raised against the nullity of the marriage based on the four months of cohabitation that the spouses endured with difficulty. For marriage is not validated by any cohabitation, unless two things are present: knowledge of the nullity, which should have been remedied, and peaceful and voluntary intercourse (Sánchez I, 4, section 18, paragraphs 3 and following). But the girl, recently converted to the faith, was ignorant of the laws regarding impediments to marriage. And the cohabitation was never peaceful, because the girl, brought to her husband's home, always tried to escape as much as possible, fled several times, climbed over walls, and if she returned, it was because she was brought back. It is also irrelevant that the marital act was performed out of necessity, and that children were born from it. For, once the nullity of the marriage is established, the union of bodies and its effects, without intention, without consent, and without any sacrament, are of no value. However, the question of whether violence can be purged through intercourse disappears after the Council of Trent, which established the form necessary for the validity of marriage: namely, that it be contracted before a priest, with the solemn conditions observed (Rarbosa de off. et potest. Epis. all. 32, paragraph 149). Therefore, it is certain, from the Sacred Congregation, the Rota, and from the Doctors, that a marriage invalid due to a hidden impediment can be validated by purgation, but cannot be restored if the impediment is public, unless it is celebrated again before the Church.

[*Latin ed. p. 411*]

MATRIMONII 41, i, Vot. decis. I, 2, vot. 17, n. 178; Fagnan, in cap. de illis 11 de desp. impub., n. 13; and many others. In this case, nothing is more evident than the vice of coercion in these nuptials, according to the opinion of all. Hence, this vice cannot be remedied, lacking the necessary conditions; for the intent of the law seems to be to remove scandals and offenses, which would certainly not be removed if an impediment were known to anyone. Finally, in the seventh section of the argument, the defender of the actress exposes the objections of her adversaries concerning the woman's conversion to the Catholic faith and the negotiations for reconciliation, begun after the separation, which, although they do not invalidate the nullity, reveal

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the truth. Thus, having refuted these opposing arguments, the defender concludes that the marriage, as it was infected with vice and violence, both in its origin and in the act itself, and in what followed afterward, must be declared null and void.

DEFENSE OF THE PRINCESS. The defense of the Princess divides its argument into three parts: in the first, it attempts to demonstrate that the marriage, as freely entered into by both parties, remains valid in its full force; in the second, it strives to refute the opposing arguments concerning the fear instilled; and in the third, it addresses the issue of the education of the child, arguing that, during the litigation, the child's education must be considered.

Regarding the first point, the defense argues that the Princess's freedom to consent could have been compromised, both by the presumption of the law and by the circumstances that preceded and accompanied the marriage. The presumption of the law favors the exclusion of fear (l. 2 Cod. De his quae vi etc.); and it is especially to be considered when a marriage is solemnly celebrated before the Church, in the presence of a Prelate, priests, distinguished men, and the parents of both spouses. The circumstances that preceded the marriage support this presumption: for, from the time the Prince became aware of her, the young woman freely demonstrated her affection for the future spouse; and the marriage negotiations were begun with such fervor and willingness that she requested that the wedding be celebrated as soon as possible, even from the father of the groom.

[*Latin ed. p. 412*]

412 Concerning the marriage, the advocate stated that the abjuration of heresy was not made from the heart, but rather as an occasion for the marriage; and that she appeared to have acted with a clear and untroubled mind during the celebration. Thus, there was no sorrow or distress in her mind. It is not surprising that the mother urged Mary to consummate the marriage; for experience teaches that the advice and commands of mothers are often not sufficient to enable girls to fulfill the duties of marriage, even though one may not doubt their affection for their husbands. From these points, it is easily understood that Mary freely and spontaneously gave her consent in the act of celebrating the marriage. Indeed, this is so true that the very woman who was leaving her marital home desired reconciliation with her husband.

However, while discussing this reconciliation, which failed due to external causes, not a single word was spoken about force or lack of freedom in the marital consent. Then, spontaneously, the opposing arguments are presented based on an invincible horror and aversion towards the prince; because the prince is a handsome man, free from any blemish or deformity. And to the extent that these defects existed, the woman could easily have overcome them, considering the splendor of the future life, the nobility of

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the marriage, and the high dignity of the man. However, the opponents seek refuge in an aversion that became apparent after the marriage. If, indeed, this aversion originated from causes that followed the marriage, it could not have completely diminished the freedom of consent given in the act of the marriage. Therefore, no argument can be derived to establish force and fear from the aversion and flight, because they arose from causes that followed the marriage.

Turning to the second part of the argument, the advocate of the prince maintains that these marriages were not arranged through the influence of the guardian, nor through repeated threats from the mother, as the opposing side claims. For the entire foundation of the evidence on the opposing side rests on these points:

1. Regarding the testimony of the mother, which, when related, is not considered to be a reliable account.

2. Regarding the testimony of the mother and brother, which must be rejected due to their blood relationship with the woman. The advocate demonstrated through various testimonies that the marriage negotiations were initiated by the Religious man, and not at all by the guardian.

[*Latin ed. p. 413*]

413. However, threats originating from the mother's side are not based on any valid evidence; for they are proven through the testimony of witnesses. The mother's testimony should be presented, not only because of the blood relationship, but also because she did not hesitate to reveal her own wickedness, since she must be considered the instigator in this case, having urged her daughter to bring this lawsuit. The deposition of the lady-in-waiting of the Princess is suspect, because she is devoted to the plaintiff, and is the only witness present in this trial. Furthermore, the falsity of this deposition is demonstrated by other witnesses, whom the plaintiff frequently used, and who are ignorant of the means by which the threats were made, and of the threats themselves. It is stated that witnesses should be presented who can testify in general terms about the threats made; for, according to the law, no testimony based on fear constitutes proof, *Cosci de spons.*, chapter 8, paragraph 61 and following. "However, fear is not sufficient to annul a marriage if it is not proven by witnesses who describe the circumstances of the threats; for they must testify about the fear and about the specific fear that is the subject of this case; otherwise, their testimony is irrelevant." Regarding the threats made by the mother, the defender points out that, even if they were to be admitted to a small extent, the marriage would nevertheless be rendered null and void by them. For, first, it is established that the mother, who was of a calm disposition, said nothing to her daughter other than that, once everything was prepared, she could not recede from entering into the marriage. Secondly, it is established in law that, in order for fear to constitute a valid impediment to marriage,

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it must, among other things, be the case that the person experiencing the fear reasonably believes that the threats will be carried out, and that they cannot easily avoid the evils that are feared. Neither of these conditions is verified in this case, since the daughter, who was already twenty-nine years old, could easily have found refuge from her mother's threats among the royal families, or with a religious man who had renounced heresy, and in whom she had great confidence. Nor can refuge be sought for the purpose of annulment in the case of reverential fear; for, in order for this fear to be sufficient to induce nullity, it must be accompanied by threats, beatings, and other circumstances that would easily lead young girls to believe that they would suffer eternal condemnation from their parents. *Rota decis.* 334, paragraph 2, number 9; *decis.* 301, part 2, numbers 21 and following; *ibidem*, reverential fear is not sufficient.

[*Latin ed. p. 414*]

414 Concerning the marriage in question, consideration must be given only if it is qualified by threats and beatings, or by more serious circumstances. Addressing the third point of the argument, the defender of the Prince anticipates that there is no need to doubt the legitimacy of the offspring, given the validity of the marriage as stated, and in the hypothetical case of its invalidity, given the Prince's good faith in entering into the marriage, citing the text in chapter 2, "Who are the children of the law," and Reiffenst. I. 4, title 17, § 1. However, after three years from the date of birth, the education of the children pertains to the father, according to Just. Instit. title 9, and the decision of the Rota, 252, no. 12, part 18, vol. 1, record. From this, the defender argues that, even during a legal dispute, the Prince should request a provision from the Sacred Congregation of the Council concerning the education of his children, and that it should be placed in a location where the greatest benefit appears, as is testified in I, on the benefit of tutors. Rota dec. 12, part 8, no. 12, record. - there - "The benefit of the pupils must truly be the primary concern of the judge when determining the location of their education." There is no doubt about the competence of the tribunal; since the cause concerns the validity of the marriage, the matter is within the jurisdiction of the Sacred Congregation of the Council; therefore, it follows that the same tribunal should also rule on the subsequent consequence, namely the education of the children, and that it should make a definitive determination. Controversies of this nature must be resolved and settled by the judges who are competent to rule on the principal matter. Given the piety of the Prince, there is no reason to doubt that the judgment would be enforced; and therefore, all suspicion of his unsuitability seems to be unfounded.

OBSERVATIONS OF THE DEFENDER OF THE SACRED BOND. This advocate, defending the validity of the sacrament, contemplates the marriage in question to the extent that it has exercised its validity through the

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consent of the woman, or through her actions during the celebration, or through carnal intercourse with her spouse. He argues that this can be demonstrated, first, by examining the concrete union of the spouses, in which the silence of the woman for eight years after the marriage, and the birth of children, speaks eloquently in favor of the validity of the marriage; second, by the woman herself, to the extent that she demonstrates moral certainty of the same validity; and third, by canon law, which protects the same validity by presumption of law and by law itself. If moral certainty of the validity of her marriage is not...

[*Latin ed. p. 415*]

415. The Lady, having sought to obtain a divorce, did not overlook the opportunity, during the eight years that elapsed and amidst numerous failed attempts at reconciliation, to allege nullity, lest she be compelled to return to her husband. Indeed, she vehemently desired that the bond be broken. However, when this reconciliation was being considered by several most distinguished men, it was discovered that the grounds for the alleged nullity were [trivial matters of contention; namely, that the Prince was, or appeared to be, either poorly dressed, or wore small pendants that belonged to a younger and more elegant man, and other similar things; but nothing was ever alleged concerning the marriage itself, concerning force, or concerning a lack of freedom in the consent given to the marriage]. Therefore, the advocate for the marriage argued as follows: Since the Lady's hatred for her husband increased daily, and since her ultimate desire was to be freed from this bond; and since, having become more firmly established in her hatred, she abruptly terminated the reconciliation proceedings, alleging that she could not erase the memory of past grievances; it is inconceivable that, unless she were certain of the validity of the marriage, she would have rejected reconciliation, replying: "I have no husband." If she did not say this, then for eight years she never doubted the validity of her marriage; either because she knew that she had freely consented during the actual celebration of the marriage; or because, through a new consent, given in the marital office and with affection rendered to her husband, she ratified the marriage. The advocate, in addressing the question of consent, considered it necessary to hear those who had been present at the celebration of the marriage and who had witnessed the giving of her consent. And the Prince testified first that he had never perceived any violence used against his bride. This is confirmed by the Parish Priest, the Prelate, and others who were present at the sacred ceremony, who affirmed that Mary appeared to have acted with a clear and free mind during the sacred rite; so much so that, according to the Parish Priest, she asked him while standing beside him: "Would it be better if we knelt?" This is certainly not the thought of one who opposes the rite that he is celebrating with all his heart. Having presented these testimonies, the advocate, applying the principles of law,

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argued that, in order for fear to constitute an impediment to marriage, it must be present and must persist at the time the marriage is celebrated; it is not sufficient that it existed at some other time.

[*Latin ed. p. 416*]

416. Regarding marriages, it is so that when threats precede, because the will of a man is changeable, and what he previously rejects, guided by sounder judgment, he may subsequently embrace; Sánchez de matrim., Law 4, Title 2, paragraph 15, and more clearly, the Sacred Roman Rota, Decree 600, paragraph 2, Part 4, recently: "Not every fear suffices" to invalidate a marriage, but only that which falls upon a "constant" man, and by which the consent is entirely removed from the act of contracting. Again, there is a great difference between fear passively conceived in the mind and fear actually inflicted and experienced. In the first case, it may be more difficult to judge whether it is of a kind that could affect a "constant" man, because the proof depends directly on the mind, and much is doubtful, unless there are necessary and conclusive indications, as is required when it concerns the marriage covenant. In the second case, fear does not always remove consent from the act, unless it is proven together with the act itself; nor is it sufficient that it preceded or followed, because, for a time before the marriage, the proof of fear remains ambiguous, due to the possibility of a change in will, which is variable and changeable; and afterwards, it serves only as an aid to the preceding proof of fear, which, if the aid is lacking, is not sufficient. Therefore, if it is proven in a case that fear was absent during the celebration of the marriage, it would be in vain to object that, at some time, either the fear itself, or the force exerted by the Princess, was caused by the mother. Therefore, everyone can see that the entire controversy depends on the fact of the threats, which are said to have been prompted by the mother; and that these threats are of such necessity that, if they are lacking, neither is the fear considered suitable to produce an impediment, nor is it legally admitted. With regard to this, of the five conditions required in fear to constitute an impediment, three explicitly refer to threats, according to Sánchez de matrim., I, 4, Title 5, paragraph 10 and following: the third, that the one who inspires fear must be able to order the execution of threats; the fourth, that he is accustomed to carry out threats; the fifth, that he must not be able to easily prevent the person fearing from avoiding the evils feared. All of these are also required in reverential fear of parents, as stated in the chapter on the womb, in Title 1, and in Sánchez de matrim., Volume 4, Title 6.

[*Latin ed. p. 417*]

MATRIMONII 417 n. 7: "Solum timor reverentialis, nisi minae, aut verba, aut alius timor grave adiungatur, non cadunt in viro constante, et ideo non dissolvunt matrimonium...." Haec probatio in hoc casu omnino desit, quia

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sola actrix cubicularia affirmavit, aliquando minas a matre audivisse. Alii proferuntur testes pro hisce minas confirmandis; sed isti repetunt cognitionem suam vel a matre vel ab aliis. Prima inter alios venit mater; eius tamen depositio suspecta est; quia, poenitens de infausti matrimonii factis, omnem studium impendit, ut filiae vota obsecundaret. In iure autem constitutum est, ut, cum matrimonio constante, testimonium matris non attenditur contra coniugium sine plurium iuramento; ita in cap. 25 de testibus: "matre asseverante ipsos esse consanguineos...." si matrimonium est firmatum, non debet sine plurium iuramento dissolvi. Alii vero testes referunt se audivisse de his minis, sive a matre ipsa, sive ab aliis parentibus, et parum praecise referunt. Dum e contra, minae debent examussime praecise et in specie, ac in suis circumstantiis designari (Cosci de sep. th. 1 cap. 8 n. 6: "metus pro annullando matrimonio non probatur per testes non concludentes de circumstantiis minarum."). Ergo ex dictis eruitur quod illatio minarum ab una matris affirmatione derivatur. Sed matris testimonium pro nihilo ex iure habendum est, nisi adsit fides aliorum testium, de facto proprio deponendum contra matrimonium iam celebratum. Quod si de minis constaret, ait vinculi defensor, alia deficit conditio, quod minas inferens solitus sit eas exsequi, idest, prout ait I. famosi ff. ad leg. iul. §. S: "persona spectanda est an potuerit facere, et an ante quid fecerit." Et uti subdit Sánchez de matrim. I 4, disp. 2 n. 20: "Similiter non sufficit ut minans semel male tractaverit, quia unus actus hominis non probat consuetudinem, sed exigitur saltem binus." Atque in casu, etsi omnes testes concluderent quod minae a matre fuissent in executionem perducendae, id inverosimile videtur, attenta charitate et humanitate matris, et ex alia parte docilitate filiae; et attento etiam quod nullum exemplum de ista exequendi minas consuetudine proferatur. Acta, Tom. III, fase. O XL. '27.

[*Latin ed. p. 418*]

418. Regarding the marriage, when the defender of the sacred bond refuted the exception based on fear arising from threats, he undertook to investigate more deeply the intentions of the Princess. "For her governess reported that the young woman believed that it was her sacred duty to marry the man whom her mother had chosen for her. Therefore," he said, "the matter concerns an act of consent elicited from the voice of conscience. Thus, the marriage with Prince Albert was understood by the Princess as a duty arising from her obedience to her mother's authority, and she gave her consent accordingly. We know from St. Thomas, *Quodlibet*, article 25, that a human act is judged virtuous or vicious according to the good apprehended by the will, and not according to the material object of the act. Therefore, if the Princess understood that marriage, even though it was unappealing, as a duty arising from the obedience she owed to her mother, it is clear that, rather than fear influencing her deliberation, the impulse of conscience, which commanded her to obey her mother's will,

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exerted a greater influence. Having defended the validity of the marriage based on what preceded the wedding, the defender of the bond proceeds to demonstrate the ratification that would have followed, in the hypothetical case of nullity, through consummation and cohabitation. This ratification of an invalid marriage is found in chapter 4, which concerns marriages, accusations, and possessions, and in chapter 21, concerning betrothals. This, however, remains valid even after the Council of Trent, as the Doctors teach, provided that the impediment was hidden, and that consummation or cohabitation took place with marital intent, as Sánchez de matrim. I, 1, dispute 37, number 14, concludes: 'That marriage, which was null due to a hidden impediment, can be ratified by marital intercourse between the spouses...' The same holds true in light of the Council of Trent. In this case, it is inferred that fear was not the cause of the hidden impediment because all the witnesses cited above knew the sad history of this marriage after the Princess separated from her husband. Therefore, if one were to inquire of all the witnesses presented by the Princess whether fear regarding the hidden impediment was present, only the chambermaid would appear, who testified that she had sometimes heard these threats.

[*Latin ed. p. 419*]

MATRIMONII 419 Concerning the second condition of marital affection in the act of consummation, it should not be presumed, according to the theologians cited by St. Ligorius in *Theologia Moralis*, L 3, n. 368, who state that "since a woman can prevent the act of consummation by fear, her cooperation at that time is truly moral and voluntary," that the bride, who, having entered into a valid marriage, is obligated to perform marital duties not once or twice, but repeatedly, would deliberately expose herself to mortal sin by engaging in the act in a fornical manner with her husband. Hostiensis, in the chapter concerning faith in betrothals, and Couvarruvias, in *Decreta*, 4, p. 1, c. 4, § 1, n. 11, state that one should not presume that the bride committed this mortal sin, but rather that she had a genuine marital affection in her heart, free from fear.

However, this is contrary to the Princess's character; and since she was endowed with exquisite education and an excellent conscience, she would never have tolerated being freely mingled with a man in such a way as to have been, at any time, subjected to rape and to have engaged in fornication. Therefore, it is more fitting to say that she, through that very act of consummation, made her marriage, if it could still be considered such, legitimate and valid.

However, it is objected: The Princess was ignorant that a marriage contracted by force and fear is invalid; and this, according to the teaching of canonists, prevents the marriage from being ratified by the act of consummation. Although all the witnesses affirm that the girl was ignorant of this impediment, Vindex argues that it is contrary to any principles of canon

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law to establish a fact based on a mere probability, which contradicts the dictates of natural reason; namely, the ignorance of the necessity of consent for entering into marriage.

But how could the girl have been ignorant of this, having been thoroughly instructed in matters pertaining to faith by a Religious man, when, during a period of almost four years, she was first questioned by a lay magistrate, and then by a minister of the Church, as to whether she consented to be joined in marriage with Prince Albert?

Therefore, from these considerations, two points must be addressed:

I. Whether one should adhere to or depart from previous decisions.

II. Whether and how, during a legal dispute, one should consider the education and instruction of the child.

[*Latin ed. p. 420*]

420. The Sacred Congregation of Matrimony, in its meeting on January 3, 1880, decided to write concerning the following: To confirm Resolution I, given on May 17, 1879, namely, that the validity of marriage must be established in the case; however, the legitimate filiation of the son must be firmly established by law and fact. To II. Regarding the intention: the intention is that, through the resolution concerning the first doubt, nothing should be taken away from the right and obligation of both the father and the mother concerning the education of the son, taking into account the dispositions of both public and private law. The parents are to be held to convene within three months from the date of this resolution to determine the place where the son will be placed and educated, and within one month from the date of the commencement of the convention, to carry out said convention. RESOLUTION. From which the following are deduced: I. Marriage cannot be annulled by any agreement if fear or coercion intervenes; for marriage is perfected solely by consent, and if this is lacking, it must be considered as having been done in vain. II. Because greater freedom is required in marriage than in other contracts, therefore, marriage can also be declared invalid for reasons that would not suffice to invalidate civil contracts. (1) III. Therefore, marriage must be judged by special law; and because it contains the very bond of life, it cannot be dissolved by the withdrawal of the parties, as can other civil contracts, and, with unhappy consequences, can generate so much evil, distinguishing between soul and body. (2) In chapter 1, § 93, it is said: "In order to invalidate a marriage, it is necessary that the parties be fully free, 'which signifies the union of Christ,' so that no one can be forced into this union against the will of the Church, which is founded on love." "But one can be forced into this union not by injury, but by fear, which, although less than in other contracts, is sufficient to invalidate the marriage, because once a contract is valid, it cannot be more easily annulled; and hence the reason for marriage is different from that of other contracts; for these can be dissolved by the authority of a

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judge; consequently, a grave injustice inflicted renders them invalid." (2) Schmalzgrueber, L 4, title 1, § 394, says: "Furthermore, the reason why marriages extorted by fear are invalid is because it was necessary that the parties be free."

[*Latin ed. p. 421*]

MATRIMONII 421 IV. Quum etiam preces violentae tales habeantur, quae animum labefactare queant, ideo quoties defuisse constet liberum consensum, haud necessum esse probare vim aut magnam formidinem fuisse illatam : nam plura animum deflectere valent, quae ad vim ac metum stricte non pertinent. V. Magnam animi aversionem et repugnantiam, per lamentationes et continuas protestationes panditam, removere posse consensum a contrahendis nuptiis. (1) VI. In themate adfuisse videri aversionem huiusmodi atque repugnantiam mulieris in virum ; ita ut solummodo per assiduas violentas preces et matris minas, infensam puellae voluntatem violari potuerit. VII. Ex canonistis haberi ceu timorem cadentem in virum constantem, indignationem diuturnam sine spe reconciliationis ; nam grave reputatur malum, semper prae oculis habere indignatam personam illam, a qua aliquis pendeat. VIII. Erui quoque foeminam ex naturali sui corporis constitutione minus viro metui resistere posse ; ideoque minorem sufficere metum ad eiusdem constantiam opprimendam. IX. Persuasiones et importunas instantias cum metu reverentiali coniunctas, satis esse ad evincendum, praecipue quoad foeminas, violatam fuisse libertatem, ad matrimonium rite ineundum, necessariam. X. Post Tridentinum, matrimonium metu contractum non convalidari etiam purgato metu per cohabitationem et per copulam carnalem; sed necesse esse iterum contrahere coram Parocho et testibus iuxta formam praescriptam in cap. 1 Sess. 24 de ref. matrim, si publicum sit impedimentum (2) . XI. Absque tridentina forma vero matrimonium posse residere.

(1) Cosci n. 178 ait : « Ratio est quia omnis metus probatus si deponatur, ... de ipsius aversione erga coniugem " que intervenire in ante " eiusdem " sponso, a et post matrimonium. De repugnantia dormiendi cum quo numquam se cognosci debet quo- ratiñeatione, nec " potest deservire solemnitas per piius » sequuta, quoniam illa debet concur » rere de tempore actus, nec potest ab ta etc. " eo separari..., »

(2) Barbosa in -vot. decis. i. 2 vot. n. 54 seq. « E x parte mulieris per te- stes dicitur de sep. th. I. i cap. probatus metus si depo- •′ forma et solemnitas quae debet inter- » nant . . . . d e ipsius aversione erga coniu- " venire in actu ut valeat, » gem " que intervenire in ante » eiusdem » sponso, a et post matrimonium. De repugnantia dormiendi cum quo numquam se cognosci debet quo- ratiñeatione, nec " potest deservire solemnitas per piius » sequuta, quoniam illa debet concur » rere de tempore actus, nec

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potest ab ta etc. " eo separari..., »

[*Latin ed. p. 422*]

422. Marriages are vitiated if there is a hidden (1) impediment, provided that both parties concur, namely, with knowledge of the nullity, and with a peaceful and spontaneous union or intercourse, entered into with marital intent. XII. In the case under consideration, both of these elements appear to be lacking; for the girl, having recently been converted from heresy to the faith, is more likely to have been ignorant of the laws regarding impediments to marriage, and furthermore, the union of four months was neither voluntary, nor peaceful, as can be gathered from the entire course of events. XIII. Therefore, the marriage is deemed to be invalid due to the lack of consent, and has not been validly ratified; it presents no obstacle to a long delay, nor does it give rise to any legitimate claim regarding the children born from it, so that a declaration of such nullity can be legitimately sought from the Apostolic See. XIV. Legitimate children are to be considered to be born from an invalid marriage, but in the eyes of the Church and in good faith, at least on the part of one of the contracting parties, even if the other spouse was aware of the impediment (2) before the marriage or its consummation. (1) But someone, or perhaps a few, in the case under consideration, might object: "The girl was informed of the impediment; therefore, the threat can be called a hidden impediment, and the union can be purified, so that scandals and objections to this sacrament may be removed." But what scandal would there be among the people if an impediment that is currently unknown becomes known and is proven in a trial? At that time, the nullity of the marriage would be established, and the purification would be performed without form! It is understood that there is a difference between something that is hidden with regard to purification and something that is hidden with regard to the threat and irregularity; whatever is known to a few is considered to be revealed, even if it was previously hidden. (2) This jurisprudence was established by Alexander III in the decree "Cum inter auctores cap. qui filii sint I. virum et T. mulierem divortii sententia est ex D.D." It is not merely that it is not openly known, but that it can sometimes be proven. And therefore, Schmalzgrueber states that, if the impediment is known or probable in a trial, and the impediment is not contrary to the Church, the children of those who, before the divorce, had contracted marriage publicly and without contradiction, should not suffer any loss, since the parents entered into the marriage in good faith. Therefore, we decree that the children of those who, before the divorce, had contracted marriage, and who were conceived before the divorce, should be considered legitimate, and that they should succeed to their paternal inheritance by right, and that they should be provided for with the resources of the parents. The form of the Tridentine Council states: "It is understood

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that..."

[*Latin ed. p. 423*]

423 FROM THE HOLY CONGREGATION OF BISHOPS AND REGULAR CANONS CONCERNING THE PAYMENT OF A PENSION. On September 5, 1879, a SUMMARY OF THE CASE was presented. When the priest, Nicholas Petrucci, sent a notification to his parish, the Most Holy Father issued a decree on January 8, 1859, "granting him, in his favor, an annual pension of sixty scudi, to be paid by the Archpriest for the time being: namely, one on June 30, and the other on December 31 of each year; this pension being to be considered in place of patrimony, so that the aforementioned priest, Petrucci, may hold the Archpriestal Benefice, of which we are speaking, in the title of ordination, or as a sacred patrimony." This pension was paid in full until the year 1867. In the year 1871, since the pensioner was unable to obtain the funds to pay the pension, he appealed to the Holy Congregation of Bishops and Regular Canons. The Tribunal, after being questioned for information and opinion, reported that the parochial revenues were such that they could indeed bear the full and proper pension, which, according to the decree *Cum nuperrimis*, must be maintained, but that they were not sufficient for the support of the parish priest. The Holy Congregation then gave counsel that the matter be resolved peacefully between the parties, but in vain. Therefore, the Episcopal Tribunal N. on August 11, 1874, issued a judgment in which, after previous observations of law and fact, it declared that the parochial revenues could not bear the pension of 60 scudi, nor any other pension of a smaller amount, in favor of Nicholas Petrucci. The pensioner appealed from this judgment at the appropriate time, and the legal question was proposed to be treated in due order.

[*Latin ed. p. 424*]

42. REGARDING THE SETTLEMENT OF THE PENSION: A SYNOPTIC DISCUSSION. THE RIGHTS OF THE PENSIONER. The pensioner stated that, according to the judgment of the Ordinary, the revenues of the parish, which were burdened with this pension, had been greatly diminished. And to prove this, he recalled the individual titles of revenue, which he asserted had been falsified. The result of such an examination was that, even according to the calculations made according to the judgment, but with careful corrections, the revenues, free from any burden, would amount to 1344.00. From this sum, even after deducting a reasonable amount for expenses, there would still remain 796.75; a sum of money which, easily, could provide a pension of 322.50 for the same person. Furthermore, the pensioner pointed out that the judgment of the Court was "absolutely null in law." And he was astonished, above all, at how the Court had called this a private matter; for even if it considered the matter to be a simple and straightfor-

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ward one, without any need for a formal trial, it could not disregard those things which touch upon the substance of the law. For, if the right of defense is denied to anyone, then the judge cannot, according to Reiffenstuel, lib. 2, decret. tit. 27, § 2, n. 42 and 43, "pronounce a judgment without full knowledge of the case." "For," the judge should not, even in a summary trial, "so abbreviate the proceedings that necessary proofs and legitimate defenses are not admitted." Among these, the first place should be given to the citation, because, according to the same author, in lib. Oblig. tit. 3, n. 67, "citation pertains to natural defense: no one ought to be condemned unheard." Therefore, even if the judge considered it appropriate to proceed directly, and without any formal proceedings, he could not, nevertheless, disregard the formalities of natural and civil law. He also added that the judge was only permitted to proceed summarily when the case involved matters that required a swift resolution, which was not the case here. There was nothing to prevent the judge from rendering a judgment, without hearing the pensioner, who could provide appropriate declarations regarding the facts upon which the judgment was to be based. In addition to all of this, the pensioner stated that it was perfectly clear to him that...

[*Latin ed. p. 425*]

CONCERNING THE LIQUIDATION OF THE ECCLESIASTICAL REVENUE: The parish, to which a notification was sent, could easily bear a pension of 60 scudi. For, on the contrary, according to Reifferscheid, I, 1, Beer, title 2, § 3, no. 72, the ecclesiastical courts could not avoid imposing penalties, by allowing the aforementioned 60 scudi to be included in the parish's sacred property, from which it would be deprived in the first place. However, it was asserted that, in reality (after calculations performed according to the judgment), the parish's revenues amount to 2319 florins, without uncertainty; adding to this, the value of the money is 3074.90 florins. But the revenues from the alb and the black vestments should be considered certain, as stated by Luca de Iure Patronato, disputation 15: "Those emoluments cannot be called uncertain and eventual, since the parish priest is obligated by necessity to contract marriage, and to administer other sacraments..." Therefore, it necessarily follows that such emoluments are certain in kind and in substance, although they may be uncertain in quality. Furthermore, Piton, part 2, disputation 46, no. 4, distinguishes between those uncertainties that arise from sacraments and burials, and those that depend on the will and piety of the people, and asserts that the revenues from the alb and the black vestments should be included in the calculation, at least to the extent that the pension is paid. This pension, according to the author himself, could also be imposed on a parochial benefice, the revenues of which would consist solely of uncertain revenues. RIGHTS OF THE PARISH PRIEST. It has been noted that there are authors who maintain that the revenues from the alb and the black vestments cannot be included

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in the parochial assessment. For if this assessment must be calculated based on one hundred scudi annually in papal money, it could often happen that these uncertain revenues do not reach the sum of money required, as stated in Rota, January, Parochialis, decree 23, no. 1: "As for the second point, namely, how much this assessment should be, Pope Pius V, in his Constitution 45 Ad exequendum, because the ordinaries were exceeding the intention of the Council in assigning assessments, declares that the amount of the assessment should not be greater than 100 nor less than 50 scudi annually, calculated even with uncertain revenues, emoluments, and other customary receipts, which is to be understood of those uncertainties that have some certainty, such as tithes of grain and wine, and other fruits, emoluments, and receipts that depend on..."

[*Latin ed. p. 426*]

426 CONCERNING THE LIQUIDATION OF A PENSION: The amounts that vicars can receive are uncertain, as to how much they may obtain; however, this is not to be understood as referring to entirely uncertain matters, such as alms for the altar, funeral expenses, and the like, because these are not included in the *congrua*. Ref. *De Congrua* n. 83, Mantica, decree 269, n. 6, Rota, decree 5, n. 3, p. 2, *divers*.

With these points noted, the following question was to be resolved: Whether and how the decision of the Ordinary, dated August 1, 1874, can be upheld in this case.

RESOLUTION. The Sacred Congregation of Bishops and Regulars, after careful consideration, decided to respond as follows: "Regarding the question: In the opinion of this Congregation, the decision of the Vicar General N., dated August 11, 1874, must be overturned, and the full pension must be paid to the priest, Nicholas Petrucci.

FROM WHICH THE FOLLOWING CAN BE GATHERED:

I. Roman Pontiffs possess the authority to impose pensions on benefices, if there is a just and honest reason, for example, for the sake of equity and compensation, for the outstanding service of a cleric to the Church, for excellent virtue, for profound knowledge, for old age, for illness, or for another pious reason.

II. Ecclesiastical pensions, which have also been imposed on parish benefices by Apostolic authority, must be fully restored, to the extent that the *congrua* remains intact, as established by the decree *Cum nuperrimis* concerning the parish *congrua* of one hundred scudi.

III. Whether considered within the context of the parish income or separately, the *congrua* of one hundred scudi remains intact and complete.

IV. Pensioners to whom pensions are granted for their exclusive benefit can send a notification to them, for anyone is freely able to renounce their

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right (I), except in the case where the pension cannot be transferred without the notification of a superior, as is the case with the Holy Father, or the authority of another superior; in this regard, you have the information that this does not apply to a beneficiary whose benefit is established for the sole use of the pensioner. This distinction is made because the pension, in the case of a beneficiary...

[*Latin ed. p. 427*]

CONCERNING THE CESSATION OF A PENSION: 427. If, by authority of the See, a place is held within the sacred patrimony, or if someone, having been promoted to the sacred Orders, receives a pension from it, then the pensioner, even if he wished to cede this pension, could not do so, because he has established the sacred patrimony as his own concerning it; and no one, having been initiated into the sacred Orders, can, by his own authority, renounce a benefit. For the benefit is for the good of the Church, and therefore its relinquishment can harm the Church itself. Furthermore, the spiritual bond which is formed between the Church and the cleric cannot be dissolved without the consent of the Church, or of the Prelate.

FROM THE DECREE OF THE SACRED CONGREGATION OF THE INDEX: On the third day of January, 1880. The Sacred Congregation of the Most Eminent and Reverend Cardinals of the Holy Roman Church, by order of His Most Holy Lord Pope Leo XIII and the Holy Apostolic See, concerning the Index of books of corrupt doctrine, and their condemnation, proscription, expurgation, and permission throughout the Christian Republic, having met in the Apostolic Palace at the Vatican on January 18, 1880, condemned and condemns, proscribes and proscribes, and ordered and commands that the following works be referred to the Index of Prohibited Books. *Éléments de morale universelle à l'usage des écoles laïques* by G. Tiberghien, professor at the University of Brussels. — Brussels, 1879.

[*Latin ed. p. 428*]

428 DECRETUM: The Commandments of Humanity, or Moral Life in the Form of a Popular Catechism. *Los Mandamientos de la Humanidad ò la vida moral en forma de catecismo* according to Krause, by G. Tiberghien, professor at the Free University of Brussels, translated by Alejo Garcia Moreno, Doctor of Philosophy. — Puebla, Reprinted in the hospice, 1879. *Opera praedamnata ex Reg. II. Ind. Trid.*: Zeffirino Ealcioni. *Coup-d'oeil sur le Christianisme*, by a Freemason, disciple of positivist philosophy, former secretary of the pontifical chapel. — Paris, 1879. *L'umiltà gallicana, difesa coli' uno e coli' altro Diritto da molti porporati componenti la Sacra Congregazione dei Vescovi e Regolari etc., a carico e vitupero dei reverendi sacerdoti Jullion, Maurice, Défourny, Devy ed altri.* — London Printing House. Homily, which the Catholics of the whole world dedicate as a sign of esteem to His Excellency, the Most Reverend Monsignor Langenieux,

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Archbishop of Reims, Gallican, 1879. *Damnantur ut libelli famosi.* Terenzio Mamiani. *La Religione dell'Avvenire*, that is, The Positive and Perpetual Religion of the Human Race. Six volumes, in 16mo. — Milan, Fratelli Trêves publishers, 1880. *Critica delle Rivelazioni, mistica dottrina del pastore Gionata Heuerley di Charleston, frammenti pubblicati da Terenzio Mamiani in appendice al suo libro «La Religione .dell'Avvenire».* — Milan, etc. 1880. Therefore, no one of any rank or condition should dare to publish, or in the future to publish, or to read or retain, these condemned works, in any language, but rather...

[*Latin ed. p. 429*]

DECREE 429: Ordinaries, or Inquisitors of heretical perversity, are bound to hand over [such matters] under the penalties indicated in the Index of Prohibited Books. These matters, having been related to Me, the undersigned S.I.C. [Secretus], were approved by HIS HOLINESS, our Lord Pope Leo XIII, and He commanded that they be promulgated. In witness whereof, etc. Given in Rome on the 16th of January, 1880. Fr. R. Thomas M. Cardinal Martinelli, Prefect. Fr. Hieronymus Pius Saccheti, of the Order of Preachers, S. Ind. Congregation, from the Secret Archives. In place of the Seal. On the 20th of January, 1880, I, the undersigned Censor, testify that the aforementioned Decree was affixed and published in the City. Vincentius Benaglia, Apostolic Censor.

[*Latin ed. p. 430*]

430 FROM THE SACRED CONGREGATION FOR THE PROPAGATION OF THE FAITH: Letter to Mr. Desgàretz, President of the Central Council of Lyon, in which it is stated that the pious work of the Propagation of the Faith is not included in the decree of the Sacred Congregation for Indulgences of April 13, 1878 (1).

Most Illustrious Lord,

Since the Sacred Congregation for Indulgences and Sacred Relics issued a decree on April 13, 1878, in which, renewing previously issued resolutions, it was declared that absent members cannot be included in the Pious Sodalities, some have believed that the Pious Work, which bears the name of the Propagation of the Faith, is also included in that decree, and therefore they have been renewing their membership in that Work. This, indeed, has not only been read in certain periodicals, but has also been expressly brought to the attention of this Sacred Council. Wherefore, in order that no harm may arise from such an interpretation of that decree to the sacred missions, which receive such substantial support from the aforementioned Pious Work, both through prayers and through alms, I have taken care to consult with the aforementioned Congregation regarding this matter.

Indeed, the Most Eminent Cardinal, Prefect of that Sacred Congregation, recently declared to me that it was never the intention of that decree of

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April 13, 1878, to include the Work for the Propagation of the Faith, since that Work is not merely a Sodality, but a Pious Work, and moreover enjoys privileges of its own. This authentic declaration I bring to your attention, as President of this Central Council of the same Pious Work, so that it may be suitably disseminated, and may prevent the false interpretations of the aforementioned decree.

In the meantime, I commend you to God in all things.

Given in Rome, from the offices of the Sacred Congregation for the Propagation of the Faith, on August 11, 1879.

Your devoted servant,

IOANNES CARD. SIMEONI

Prefect

Johannes Baptista Agnozzi

Secretary

(1) You have the decree of this kind referred to in vol. XI of these publications, page 157.

[*Latin ed. p. 431*]

431 FROM THE DECREE OF THE SACRED CONGREGATION FOR RITES, DATED AUGUST 11TH. CONCERNING THE BEATIFICATION AND CANONIZATION OF THE VENERABLE SERVANT OF GOD, FATHER CLAUDE LA COLOMBIÈRE, PRIEST, MEMBER OF THE SOCIETY OF JESUS. REGARDING THE DOUBT: "Whether a Commission for the Introduction of the Cause should be appointed in this case, and for the purpose intended?" Inflamed by the fire of divine love, which the most loving Redeemer of the human race sent forth from the depths of His heart into the world, Father Claude La Colombière, even while living, acquired a most renowned reputation for sanctity. From his youthful years, having joined the illustrious Society of Jesus among its students, he embraced the arduous path of perfection with eager spirit, and he provided an outstanding example of good works, in teaching, in integrity, and in the preaching of the Word of God. Sparing no effort, and subjected to the calumnies and attacks of the wicked in both France and England, he brought countless souls to Christ. He was truly worthy, whom God entrusted not only to be a guide on the path of perfection to the Blessed Margaret Mary Alacoque, but especially to encourage her in the propagation of devotion to the Most Sacred Heart of Jesus. This reputation for sanctity, along with the heavenly graces and, indeed, the miracles that were attributed to the intercession of his servant, did not cease after his death, but rather increased day by day, and after approximately two centuries, it remains so vivid and complete that it has led the Most Reverend Bishop of Augustodunum to present it to

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the Ordinary Tribunal.

[*Latin ed. p. 432*]

432. The aforementioned decree was presented for consideration. Once properly completed and submitted to the Sacred Congregation for the Propagation of the Faith, the Most Holy Pope Leo XIII graciously granted permission for the Introduction of the cause of beatification of the aforementioned Servant of God, Father Claude La Colombière, to be considered in an Ordinary Session of the Sacred Congregation for the Propagation of the Faith, without the intervention or vote of the Consultors, even though less than ten years had elapsed since the presentation of the process in the records of that same Congregation, and even though the writings of the Servant of God had not yet been thoroughly investigated and examined. Therefore, the Most Eminent and Reverend Cardinal Miecislaus Ledochowski, Relator of this cause, at the urging of the Reverend Father Augustine Negroni, a priest of the Society of Jesus and Postulator of this cause, and with the support of the Postulatory offices of several Most Eminent Cardinals of the Holy Roman Church, and of other Most Reverend prelates, and other men distinguished by both ecclesiastical and civil dignity, who were gathered today in Ordinary Sessions of the Sacred Congregation at the Vatican, proposed the following question for discussion: "Whether a Commission for the Introduction of the cause should be appointed in this case and for the purpose in question?" And the Sacred Congregation itself, after maturely considering all matters, and after hearing the opinion, both spoken and written, of the Reverend Father Laurentius Salvati, Promoter of the Holy Faith, decided to respond: "Affirmatively, that is to say, that a Commission should be appointed, if it pleases the Most Holy [Pope]." On December 18, 1879. Subsequently, a report on the foregoing was faithfully presented to the Most Holy Pope Leo XIII by the undersigned Secretary. His Holiness approved and confirmed the decision of the Sacred Congregation; and with his own hand, he signed the Commission for the Introduction of the cause of the Venerable Servant of God, Father Claude La Colombière, on the aforementioned day, January 8, 1880.

D. Card. BARTOLINIUS, S.R.C., Prefect.

L. f S. Placidus Ralli, S.R.C., Secretary.

[*Latin ed. p. 433*]

433 FROM THE CONSISTORY ACTS Concerning the Consistory held on February 27, 1880. The Most Holy Father this morning bestowed the red hat, in the Vatican Apostolic Palace, upon the Most Reverend Cardinals Federico de Fürstemberg, Archbishop of Olomouc; and Americo Ferreira dos Santos Silva, Bishop of Porto, created and publicly announced by the same Holiness on May 12, 1879; as well as upon the Most Reverend

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Cardinals Pietro Francesco Meglia, and Giacomo Cattani, Archbishop of Ravenna; and Domenico Sanguigni, created and publicly announced on September 19 of the same year. Then the Most Holy Father proposed the following sees: THE ARCHIEPISCOPAL CHURCH OF BOSTON, vacant, under the Patriarchate of Jerusalem in the territories of the infidels, through the translation of the Reverend Father Walter Steins to the Cathedral See of Augsburg, in place of the Reverend Father Vincent Tagliatela, the retiring Archbishop of the Metropolitan See of Siponto, with the perpetual administration of the Church of Vestana being added to him. Nominated by the illustrious Monsieur Jules Grevy, President of the French Republic. THE METROPOLITAN CHURCH OF A-VENION, vacant, due to the death of the Most Reverend and Venerable Louis Anne Dubreil, the last Bishop, who died outside the Roman Curia, for the Reverend Father Francisco Eduardo Hasley, formerly of Antiste Bellovacensis, nominated by the illustrious Monsieur Jules Grevy, President of the French Republic. THE CHURCH OF TURIN, vacant, due to the death of the Most Reverend and Venerable Charles Amable de la Tour d'Auvergne Lauragais, the last Archbishop, who died outside the Roman Curia; for the Reverend Father Jean Joseph Marchais, formerly Bishop of Bellicensis, nominated by the illustrious... THE CHURCH OF DAMASCUS, vacant, due to the resignation of the Most Reverend and Venerable Lord Peter Francesco, a Cardinal Priest of the Sacred Roman Edict, carried out and accepted by the same Holiness, for the Reverend Father... THE METROPOLITAN ACTS, Volume XII, page XLI. THE ARCHIEPISCOPAL CHURCH 28.

[*Latin ed. p. 434*]

434 FROM THE CONSISTORY ACTS: It is hoped that Augustine Dusserre, formerly Bishop of Constantina, will be appointed as coadjutor with succession to the Most Reverend Father Charles Martial Allemand Lavigerie, Archbishop of Julia Caesarea, or of Algiers; and that this is with the express consent of the aforementioned Archbishop of Algiers, and of the most illustrious Monsieur Jules Grévy, President of the French Republic.

THE METROPOLITAN CHURCHES OF ACHERUNTIN AND MATERAN are perpetually and canonically united; they are vacant due to the death of the Most Reverend Peter Giovine, the former Archbishop, who died outside the Roman Curia, and are now assigned to the Most Reverend Father Iesualdo Nicolao Loschirico, of the Order of the Capuchin Minor Franciscans, formerly Bishop of Gallipoli.

THE ARCHIEPISCOPAL CHURCH OF SYPONTE, with the administration of the vacant See of Vestana, is vacant due to the voluntary resignation of the Most Reverend Vincent Tagliatatela, and is gladly accepted and approved by the SANCTITATIS (Holy See) for the Reverend Father Benjamin Feuli, a priest of Benevento. He is descended from legitimate, Catholic, and

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honorable parents, and has surpassed his sixtieth year. Recently ordained to the Sacred Priesthood, and in addition to other duties, he has been assigned as an examiner for the Synod and as an ecclesiastical censor for the revision of books.

THE CATHEDRAL CHURCH OF VITERBO is vacant due to the voluntary resignation of the Most Reverend Aloisio, holding the title of Saint Jerome of Illyria, a Cardinal Priest of the Most Holy Roman Church, and is gladly accepted and approved by the SANCTITATIS for the Most Reverend Father John Baptist Paolucci, formerly Archbishop of Hadrianople and Apostolic Administrator of the See of Perugia.

THE EPISCOPAL CHURCH OF CAPHARNAUM, under the Archbishop of Petren in partibus infidelium, is vacant due to the death of the Most Reverend Mariano Fernandez Fortique, the former Bishop, who died outside the Roman Curia, and is now assigned to the Most Reverend Father Bernardino Trionfetti, of the Order of the Observant Minor Franciscans, formerly the Bishop who resigned from the Cathedral Churches of Terracina, Priverno, and Setina, which are perpetually and canonically united among themselves.

THE CATHEDRAL CHURCH OF GALLIPOLI is vacant due to the translation of the Most Reverend Father Iesualdo Nicolao Loschirico to the Metropolitan Sees of Acheruntin and Materan, which are perpetually and canonically united, and is now assigned to the Most Reverend Father Henry Carfagnini, of the Order of the Reformed Minor Franciscans, formerly Bishop of Portus Gratiae.

THE CATHEDRAL CHURCH OF BEILICEN is vacant due to the translation of the Most Reverend Father John Joseph Marchai to the Metropolitan See of Biturica, and is now assigned to the Most Reverend Father Peter John Joseph Soubiranne, formerly Bishop of Sebastopol, by the nomination of the most illustrious Monsieur Jules Grévy, President of the French Republic.

BIEN AND TUSCANY are perpetually and canonically united; they are vacant due to the resignation of [name missing].

[*Latin ed. p. 435*]

FROM THE ACTS OF THE COUNCIL: The Cathedral Church of Trident, vacant, following the death of the Most Reverend Monsignor Benedict de Riccabona, the last Bishop thereof, who died outside the Roman Curia, for the Reverend Father John Jacob Delia Bona, hitherto Bishop of Thened, in the missionary territories, by the nomination of His Most Sacred Imperial Majesty Francis Joseph I, Emperor of Austria, King of Bohemia and Hungary, by virtue of an Apostolic Indult.

The Cathedral Church of Dini, vacant, following the resignation of the Reverend Father Julian Meirieu, willingly and freely tendered in the hands

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of the HOLY SEE, and accepted by the same, for the Reverend Father Angelo Vigne, hitherto Bishop of Oran, by the nomination of the most illustrious Sir Julius Grevy, President of the French Republic.

HISTORICAL: 435 benefices have been augmented and illuminated; and it has been decided to grant and assign a new pastor, for the Reverend Father Frederick Foschi, a Priest of Perugia. He was born of legitimate, Catholic, and honorable parents in Perugia, and has reached the forty-sixth year of his age. Ordained to the priesthood, he received a doctorate in sacred theology from the University of Perugia, and has hitherto been a Parish Priest in the Cathedral of Perugia, and successively chosen as a Canon, and has held the office of Archpriest. He has served as Rector of the Seminary of his diocese; he was a secretary to the Most Reverend Bishop of Perugia, and was chosen as a Conclavist for the election of the Supreme Pontiff, and has been added to the number of Domestic Prelates of the HOLY SEE.

OTHER CATHEDRAL CHURCHES: The Cathedral Church of Terrapia, vacant, following the death of the Most Reverend Monsignor Aloisi Barbato Pasca, the last Bishop thereof, who died outside the Roman Curia, for the Reverend Father Jerome Volpe, of the Congregation of St. Jerome, formerly Bishop of Venus.

CINÉ, PRIVERNEN, AND SETIN: The Cathedral Churches of Ferento, vacant, following the death of the Most Reverend Monsignor Lesualdi Vitali, the last Bishop thereof, who died outside the Roman Curia, for the Reverend Father Peter Faccioni, hitherto Bishop of Abila, in the missionary territories.

The Cathedral Church of Perugia, which Our Most Holy Lord has wisely governed since January 19, 1846, has been cultivated with paternal care, and is now vacant, following the free and voluntary resignation of the Reverend Father Bernardino Trionfetti, tendered in the hands of the HOLY SEE, and accepted by the same, for the Reverend Father Flaviano Simoneschi, a Priest of Priverno. He was born of legitimate, Catholic, and honorable parents in Priverno, and has surpassed the fifty-fourth year of his age. Ordained to the priesthood, and having received a doctorate in both civil and canon law from the University of Rome, and having been admitted to the register of Advocates of the Roman Curia, he was formerly chosen as a Canon in his native city, and has hitherto been...

[*Latin ed. p. 436*]

436 FROM THE ACTS OF THE CONSISTORY: A Canon Prebendary of the Patriarchal Archbasilica of the Lateran has resigned. Among the Prelates of the Pontifical Household, and among the Referendaries of the Sacred Congregation, as well as among the Urban Canons attached to the Sacred Congregation of Bishops and Regulars, he had performed the office of Defender, by virtue of his position, in the Matrimonial Tribunal.

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THE CATHEDRAL CHURCH OF SARZANA is vacant, following the death of the Very Reverend Tobias Masacci, the last Bishop of that See who died outside the Roman Curia, and is now assigned to the Reverend Father Dario Mattei Gentili, a Priest of Ferentari. He, born in the city of Ferentari from legitimate, Catholic, and noble parents, has surpassed his thirty-eighth year. Having been enrolled among the students of the Pontifical Seminary of St. Pius in Rome, and there having received a doctorate in philosophy and theology, as well as in both Canon and Civil Law, and having recently been ordained to the priesthood, he has diligently devoted himself to ecclesiastical duties, especially to the preaching of the Word of God. In his native Cathedral, he held the second dignity of Archdeacon, with the honor of teaching theology, and at present, he serves as Professor of Dogmatic Theology and also of Mathematics in the Seminary, acting as its Rector, as well as fulfilling the duties of Missionary Apostolic, Pro-Synodal Examiner, and General Vicar for Spiritual Affairs of that diocese.

THE CATHEDRAL CHURCH OF LAQUEDONIA is vacant, following the death of the Very Reverend Benedict Augusto, the last Bishop of that See who died outside the Roman Curia, and is now assigned to the Reverend Father Peter Alfonso Iorio, a Priest of the Archdiocesan Church of Benevento. He, born in the town of San Angelo ad Cancellos, in the Archdiocesan Church of Benevento, from legitimate, Catholic, and honorable parents, has reached his thirty-ninth year. Having recently received the order of priesthood and a doctorate in Sacred Theology, he was formerly chosen as Archpriest-Parish Priest of St. Mary ad Torum in the Archdiocesan Church of Benevento, and as a Vicarious Foraneus, and he was Prefect of the Congregation for Cases of Conscience. He also served as General Vicar of the Archdiocesan Chancery, and as Pro-Synodal Examiner, and he performed the duties of Rector, Professor, and Director of Studies in that Seminary.

Among the Domestic Prelates of the HOLY OFFICE, the Reverend Father, having been co-opted as Auditor to the Prelate of Suessa, and as Rector of its attached Seminary, and as Professor of Philosophy and Theology, and as Pro-Synodal Examiner, has now resigned.

THE CATHEDRAL CHURCHES OF ISERNIA AND VENAFRAN, perpetually and canonically united, are vacant, following the death of the Very Reverend Anthony Izzo, the last Bishop of those Sees who died outside the Roman Curia, and are now assigned to the Reverend Father Agnello Renzullo, a Priest of Naples. He, born in Naples from legitimate, Catholic, and honorable parents, has reached his forty-fourth year.

[*Latin ed. p. 437*]

FROM THE HISTORICAL ACTS: He was instituted in the year indicated. Having recently received Holy Orders of the Priesthood, he diligently discharged ecclesiastical duties. He devoted himself to instructing children

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in the streets and in churches, to educating young people and the sick in hospitals in the rudiments of the Catholic faith, and, having served as Rector in the urban seminary of Naples, he was, until now, the Parish Priest of the church of the Most Holy Ascension of Our Lord, commonly known as "ad Plagam," where he has resigned.

THE CATHEDRAL CHURCH OF VENUSIA is vacant, due to the translation of the Reverend Father Jerome Volpe, of the Congregation of St. Peter of Pisa, to the Archiepiscopal See of Aleppo, in place of the Reverend Father Francis Maria Imparati, of the Order of Friars Minor Observant of St. Francis, a priest of the Archdiocese of Salerno. He was born of legitimate, Catholic, and honorable parents in Salerno, and was instituted in the forty-second year of his age. Having delivered philosophical and theological lectures in his Order, he has until now served as Secretary General of the entire Order in Rome.

THE CATHEDRAL CHURCH OF TARVISIO is vacant, due to the death of the Most Reverend and Most Illustrious Father Frederick Maria Zinelli, the last of that See to have passed away outside the Roman Curia, in place of the Reverend Father Joseph Callegari, a priest of the Patriarchate of Venice. He was born of legitimate, Catholic, and honorable parents in Venice, and was instituted in the thirty-ninth year of his age. He is currently serving as Professor of Moral Theology in the Patriarchal Seminary of Venice, and has also occasionally delivered lectures on ecclesiastical history there.

THE CHURCH OF BENEVENTO is vacant, due to the death of the Most Reverend and Most Illustrious Father Eugene Robert Galletti, the last of that See to have passed away outside the Roman Curia, in place of the Reverend Father Lawrence Carollo Pampino, of the Order of Preachers of St. Dominic, a priest of the Diocese of Alexandria. He was born of legitimate, Catholic, and honorable parents.

THE CHURCH OF GLEN is vacant, due to the death of the Most Reverend and Most Illustrious Father John Joseph Vitezich, the last of that See to have passed away outside the Roman Curia, in place of the Reverend Father Francis Ferrettich, a priest of the Diocese of Vienna, by nomination, with the force of an Apostolic Indult, from His Imperial and Royal Majesty Francis Joseph I.

THE CATHEDRAL CHURCH OF... (The sentence is incomplete).

THE CATHEDRAL CHURCH OF... (The sentence is incomplete).

[*Latin ed. p. 438*]

FROM THE CONSISTORIAL ACTS 438: The Apostolic King of Austria, Bohemia, and Hungary, born into ecclesiastical functions. He lacked the necessary qualities. The parish priest and dean of Öenipont, hitherto a man of legitimate, Catholic, and honorable standing, and born among the canons of the Veglensis diocese, descended from the parents of Verbenici,

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and having renounced honors at the Brixinensis Cathedral, and having surpassed his sixty-fourth year of age, was then among the pro-synodal examiners. He was added to the ranks of the members of the Caesaro-Regio Institute for the advancement of education at St. Augustine in Vienna, and in that university, he received the doctorate in sacred theology. He performed the duties of the Episcopal Chancery, or of an adjunct and chancellor, and also of a Consistorial counselor, or of the director of that court, and of a defender in the ecclesiastical court of marriages. He was chosen as a visitor and of the sacred visitation by the Secretariate, and was numbered among the pro-synodal examiners, and hitherto, he had renounced the theological canonry in the Veglensis Cathedral.

THE CATHEDRAL CHURCH OF BRIXINEN is vacant, due to the death of the Most Reverend Vincentius Gasser, the last bishop of that diocese, who died outside the Roman court, for the Reverend John de Leiss, a priest of the Brixinensis diocese, by the nomination of His Imperial and Royal Majesty Francis Joseph I, the Apostolic King of Austria, Bohemia, and Hungary, by virtue of an Apostolic indult. He was born of legitimate, Catholic, and honorable parents in Öenipont, of the Brixinensis diocese, and was instituted in his fifty-ninth year of age. Formerly, he received the order of the priesthood and the doctorate in sacred theology.

THE CATHEDRAL CHURCH OF BELLOVACEN is vacant, due to the translation of the Reverend Father Francis Edward Hasley to the Metropolitan See of Avignon, by the favor of the Reverend Desideratus Joseph Dennel, a priest of the archdiocese of Cameracensis, by the nomination of the most illustrious man, Julius Grevy, President of the French Republic. He was born of legitimate, Catholic, and honorable parents in the Monts ad Pabula of the archdiocese of Cameracensis, and was instituted in his fifty-eighth year of age. For many years, he taught the humanities in the College of St. Joseph in the Islands, and performed the duties of director. He has hitherto renounced the parish of St. Andrew in the Islands of the Cameracensis archdiocese, and is the Archpriest of the Islands.

THE CATHEDRAL CHURCH OF SAINT CLAUDIUS is vacant, due to the voluntary resignation of the Reverend Father Ludovicus Anna Nogret, who willingly completed his duties in the hands of the HOLY SEE, and was admitted by the SAME. This is for the Reverend Caesar Marpot, a priest of the diocese of St. Claudius, by the nomination of the most illustrious man, Julius Grevy, President of the French Republic. He was born of legitimate, Catholic, and honorable parents in the town of St. Agnes of the diocese of St. Claudius.

[*Latin ed. p. 439*]

FATHER, having surpassed his fifty-third year, having previously served as a parish priest in the city of Arbois, within the diocese of Saint Claude, having discharged the ministry of caring for souls in the

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town of either Molinges or Fraisans. The CATHEDRAL CHURCH of ORAN is vacant, due to the transfer of the Reverend Father Dominique Angeli Vigne to the See of Digne, for the Reverend Peter Stephen Mary Gustav Ardin, a priest of the diocese of Versailles, by the nomination of the most illustrious Monsieur Julius Grevy, President of the French Republic. Born of legitimate, Catholic, and honorable parents in the place commonly called Clairvaux, within the diocese of Saint Claude, and having surpassed his thirty-ninth year. Attached to the clergy of Versailles and recently invested with the sacred order of the priesthood, he has diligently applied himself to ecclesiastical duties. And finally, having served as a military chaplain during the French War, he was added to the ranks of the domestic prelates of the SANCTISSIMA. The CATHEDRAL CHURCH of CONSTANTINOPLE is vacant, due to the transfer of the Reverend Father Prosper Augustus Dusserre to the Archiepiscopal Church of Damascus in the lands of the infidels, and to the coadjutorship with the future metropolitan See of Julia Caesarea, for the Reverend Francis Charles Mary Gillard, a priest of the diocese of Corisope, by the nomination of the most illustrious Monsieur Julius Grevy, President of the French Republic. Born of legitimate, Catholic, and honorable parents in the city commonly called Quimperlé, within the diocese of Corisope. Having reached his forty-first year, he was established. Acting as a Professor in a small seminary of philosophy, and chosen by the secretaries of the Archbishop, he served as a military chaplain during the last French War, and was appointed as the General Vicar in spiritual matters for the Algerian archdiocese. The CATHEDRAL CHURCH of VICTORIA, or of CITA-MAULI-PAN, within the Mexican territory of North America, is vacant, due to the transfer of the Reverend Father Joseph Mary Ignatius Montes de Oca and Obregon to the Cathedral See of Linares, for the Reverend Joseph Ignatius Eduardo Sánchez and Camacho, a priest of the diocese of Sonora. He was born of legitimate, Catholic, and honorable parents in the city commonly called Hermasillo, within the diocese of Sonora, and having surpassed his forty-first year. Having received the order of the priesthood and the doctoral degree in canon law. Chosen by the secretaries of the diocesan bishop, and acting as a professor of canon law and the English language in the seminary of Guadalajara, he was appointed as the secretary of that metropolitan chapter, chaplain of the monastic communities, and as the Promoter Fiscal of the same archiepiscopal court.

[*Latin ed. p. 440*]

FROM THE CONSISTORY ACTS 440. The CATHEDRAL CHURCH of Cor-DUBEN, in the jurisdiction of Argentina Meridionalis, is vacant, due to the death of the Most Reverend Quitensi, formerly the Costa Rican Professor of Sacred Theology and Canon Law, who had served the Roman Curia. Father Mamerto Esquiù, a Priest of the Order of Friars Minor Observants of

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St. Francis, has been appointed to the CATHEDRAL CHURCH in PUNIEN, in the Peruvian jurisdiction of America Meridionalis, due to the death of the Most Reverend Peter Joseph Chavez, formerly the Bishop ad extra, for the studies of the Province of Catamarca and the Diocese of Saltensis. He was born to legitimate, Catholic, and honorable parents in the place called Pietra Blanca, and was professed in the Order of St. Francis and, in the fifty-fourth year of his age, was constituted a Priest of the Diocese of Truxillo, and is now presented to the Most Reverend President of the Peruvian Republic, having been co-opted from his youth among the Friars Minor Observants of St. Francis, and having received his philosophical and theological studies at the seminary college in the principal city of Catamarca, and having served in the office of Secretary to the late Provincial of Paranà. Father Ioanne Estevanes, from the Seminary of the Order of St. Francis of Strict Observance, was appointed to the CATHEDRAL CHURCH of St. Joseph of Costa Rica in Central America, due to the death of the Most Reverend Anselm Llórente and Lâfuente, formerly the Bishop ad extra, for the studies of the Roman Curia. Father Bernardo Augusto Thiel, a Priest of the Archdiocese of Coloniensis, has been appointed, to present to the Most Reverend President of the Republic of Costa Rica, having served in his Order as a Missionary Apostolic, Master of Novices, and Lecturer in Sacred Theology. He was born to legitimate, Catholic, and honorable parents in Elberfold, in the Archdiocese of Coloniensis, and was constituted a Priest in the thirtieth year of his age. Father Raymundo Mariae Moreno and Castañeda, a member of the Congregation of the Priests of the Mission of St. Vincent de Paul, has been transferred to the Cathedral Seat of Chiapa, in the jurisdiction of

[*Latin ed. p. 441*]

FROM THE ACTS OF THE CONSISTORY of Xicana, for the Reverend Father Isidore Joseph Du Roussaux, until now Apostolic Administrator of the Cathedral of Tornac, a presbyter of the archdiocese of Mechlin. He was born to legitimate, Catholic, and honorable parents in the town of Hallen in the archdiocese of Mechlin, having surpassed the age of fifty. He was appointed President of the seminary of Mechlin, and there he was chosen as Professor of mathematics and moral philosophy. He held the office of Archpriest of the Cathedral of Albano, with the care of souls, and when that position was vacant, he served as Capitular Vicar, and then, until the present time, as General Vicar for spiritual matters in the diocese. He is also the Cathedral Professor of Philosophy in the seminary, and currently serves as its Rector, and has been added to the ranks of the Domestic Prelates of His Holiness. He has been added to the ranks of the Domestic Prelates of His Holiness, and recently resigned as Apostolic Administrator of the Church of Tornac. LITAN, under the Archbishop of Seleucia in the parts of the infidels, by succession of the Reverend Father Aloisi Barbato

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Pasca to the See of Aliphan, for the Reverend Father Antonio Pistocchi, a presbyter of the diocese of Cassan. He was appointed as a Coadjutor with future succession, the Reverend Father Livio Parlatore, Bishop of St. Mark and Bisin, who, having given his express consent for this purpose, requires the help of another due to his advanced age, in order to properly and fruitfully carry out the pontifical and other pastoral duties in those territories and dioceses. He was born to legitimate, Catholic, and honorable parents in the town of Circlari in the diocese of Cassan, and has reached the age of fifty-six. For many years he served as Professor of dogmatic and moral theology, and as Rector, in the seminary of Cassan, and he was Prefect of the Church of Curate in his native town, and until now he has resigned as Archpriest of St. Peter there. THE EPISCOPAL CHURCH OF HIMER, under the Archbishop of Ephesus in the parts of the infidels, by the translation of the Reverend Father Hadrian Godscalk to the Cathedral See of Buscoduc, for the Reverend Father Celestino Del Frate, a presbyter of the diocese of Albano. He was also appointed as a Suffragan to carry out the pontifical and other pastoral duties in the perpetually and canonically united Suburban Churches of Ostia and Velletri, and in their respective dioceses. He was born to legitimate, Catholic, and honorable parents in the diocese of Marem in Albano, and has surpassed the age of forty-three. Among the students of the Pontifical Seminary of Pius, he received the doctorate in theology and in both laws, and was recently ordained as a priest, and is a Canon of the Collegiate Church of his homeland.

[*Latin ed. p. 442*]

From the Consistorial Acts:

The Most Reverend Lord Antoninus, appointed Visitator to the Sacred Roman Church, and formerly among the pro-synodal Examiners, along with Cardinal De Luca, the Bishop of Praeneste for pontifical matters, and others, were most intimate advisors to His Holiness in pastoral matters, and were appointed to offices and honors according to their desires.

The Episcopal Church of Rosen, under the Archbishop of Anazarbus. Born in Praeneste of legitimate, Catholic, and honorable parents, he was, through the translation of the Reverend Father Paul Saulini, appointed to the Cathedral See in the thirty-fifth year of his age. Among his students were the Reverend Maria Angelo, coadjutor of the Pontifical Seminary of Pius in Rome, and the Reverend Emmanuel de Briey, a priest of the Diocese of Pictavium. He received the order of the priesthood there, and was subsequently awarded a doctorate in sacred theology and in both laws. He was also the Reverend Father Augustus Allou, Bishop of Meldensis, appointed to examine matters of morals, pontifical matters, and other pastoral duties as a pro-synodal examiner, and was also a member of the diocesan seminary, and performed those duties diligently and fruitfully in the Lord, and he served in the Episcopal curia, attending to matters concerning the causes

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for beatification and canonization. He also served as a notary and secretary for the Most Reverend and illustrious Man, Julius Grevy, President of the French Republic.

He was appointed Professor of Moral Theology, and was formerly a canon in the Cathedral itself, and is now the parish priest there. He was born in the town, commonly known as Magne, in the Diocese of Pictavium, and was appointed in the fifty-second year of his age. He received the order of the priesthood, and was subsequently awarded a doctorate in sacred theology and in both laws. He was formerly a canon in the Cathedral of Pictavium, but has now renounced that position.

The Episcopal Church of Gadar, under the Archbishop of Caesarea, in vacant territories among the infidels, through the translation of the Reverend Father Edward Mae Cabe to the metropolitan See of Dublin, for the Reverend Father Joseph Macchi, a priest of Praeneste. He was also appointed as an Auxiliary.

The Episcopal Church of Sidon, under the Archbishop of Tyre, in vacant territories among the infidels, through the succession of the Reverend Father Peter Hector Coullié to the Cathedral See of Aurelian, for the Reverend Father Joseph Ingami, a priest of the Diocese of Alben. He was also appointed as an Auxiliary.

The Most Reverend Lord Gustav Adolph, Cardinal d'Hohenloe, Bishop of Alben, appointed the Reverend Fathers to matters of pontifical and other pastoral duties, according to their consent and desires, to be performed in the city and diocese. Born of legitimate, Catholic, and honorable parents in the town...

[*Latin ed. p. 443*]

443 FROM THE CONSISTORIAL ACTS and from the reports of the diocese of Maren, of the Latin rite, it is known that the Most Reverend Father Stephan Lipovniczky, Auxiliary Bishop, having surpassed the age of fifty, born in Albania, was appointed by His Holiness. Having received the sacred order of the priesthood, and the degrees of license in both Canon and Civil Law, he was recently honored with the pontifical dignity, and, with the consent and approval of the Most Reverend Metropolitan of the illustrious Collegiate Basilica of Maren, he discharged the pastoral duties assigned to him in that city and diocese. Born of legitimate, Catholic parents, he taught theology, dogmatics, and civil law to clerics and young men with great skill. In the sixtieth year of his age, he was appointed a member of the Episcopal College. He received a doctoral degree in philosophy and theology. The Holy See, having considered the vacancy in the Apostolic vicariate in the territory of the infidels, appointed him, as well as the Abbot titular of the blessed Virgin of the Valley, to the office of Examiner in the Pro-Synodal College of the Archdiocese of Gran-Varad, in place of the late Reverend Father Ioanne Baptista Nogäll, priest of Maren. By a papal brief,

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the following were appointed to the Church: To the Apostolic vicariate in the territory of the infidels, the Reverend Father Vincent Vannutelli, Domestic Prelate of His Holiness, Auditor of the Roman Rota, and appointed Apostolic Delegate and Patriarchal Vicar of Constantinople. To the Episcopal Church of Eudocia, in the territory of the infidels, Timothy O'Mahony, already Bishop of Armidai, was appointed Auxiliary to the Most Reverend Father Ioannes Lync, Archbishop of Toronto. To the Episcopal Church of Ibores, in the third part of the territory of the infidels, the Reverend Father Maglorio Augustine Blanchot, formerly of the Nesqualia diocese, was appointed. To the Cathedral Church of Nesqualia, the Reverend Father Aegidius Tunger was appointed. To the Episcopal Church of Erythrea, in the territory of the infidels, under the Archbishop of Ephesus, the vacancy caused by the death of the late Reverend Father Ioannes Iacovacci, the last Bishop, was filled. To the Archiepiscopal Church of Sardinia.

[*Latin ed. p. 444*]

444 FROM THE CONSISTORY ACTS, the Reverend Father Victor John Joseph Mary of the Dynasty of van den Branden de Reeth, a Priest of Mechlin, was appointed. He was also designated as an Auxiliary to the Most Eminent and Reverend Lord Victor Augustus Isidore, Cardinal Dechamps, Priest, Archbishop of Mechlin, for pontifical and other pastoral duties, with his consent and willingness to perform these duties in that city and archdiocese. Born in Mechlin from legitimate, Catholic, and noble parents, he has surpassed the thirty-eighth year of his age. Having been granted a doctorate in Canon Law, he is a Prelate of the Pontifical House, and, having renounced his participation from within the innermost chambers of HIS HOLINESS, he has been appointed as an Extraordinary Assistant to the Major Presidency, a Referendary of the Supreme Signature, and a Censor of the Liturgical Academy in Rome.

AT THE CATHEDRAL CHURCH OF LAUSANNE, the Reverend Father Christopher Cusanandey, a Priest of the Diocese of Lausanne, was appointed.

AT THE EPISCOPAL CHURCH OF EPHESUS, in the territory of the infidels, the Reverend Clement Pagnani, of the Congregation of Saint Sylvester, was appointed as an Apostolic Vicar of Columbo.

AT THE EPISCOPAL CHURCH OF MAGIDAN, in the territory of the infidels, the Reverend Paschal Buconie was appointed as an Apostolic Vicar of Herzegovina.

AT THE EPISCOPAL CHURCH OF LYRBEN, in the territory of the infidels, the Reverend Mark Grosse, from the Archdiocese of Baltimore, was appointed as an Apostolic Vicar of North Carolina in the United States of America.

AT THE EPISCOPAL CHURCH OF METELLOPOLIS, in the territory of

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the infidels, the Reverend Father R. Menini, of the Minor Capuchins from Spalato, was appointed as a coadjutor, with the future succession to the Reverend Father Francis Dominic Raynand, Apostolic Vicar of the Latins of Sophia and Philippopolis.

AT THE EPISCOPAL CHURCH OF FESSETEN, in the territory of the infidels, Eduardo Ilsley was appointed as an Auxiliary to the Reverend Father William Bernard Ullathorne, Bishop of Birmingham.

Then, as is customary, the Most Holy Father opened the mouths of the Cardinals of Furstemberg, Ferreira dos Santos Silva, Meglia, and Cat-

[*Latin ed. p. 445*]

445 Tani and Sanguigni. And while His Holiness was placing the ring of the cardinalate on the fingers of the new cardinals, he assigned to the Most Reverend Furstemberg the title of Saint Chrysogonus; to the Most Reverend Ferreira dos Santos Silvas, the title of the Four Crowned Saints; to the Most Reverend Meglia, the title of Saint Martin in the Mountains; to the Most Reverend Cattani, the title of Saint Balbina; and to the Most Reverend Sanguigni, the title of Saint Pudens. FROM THE MINUTES OF THE CONSISTORY OF FEBRUARY 15, 1879. Matthew N., of the diocese of S., in his testamentary codicil of the year 1836, named Stephen, his nephew through his sister, as his heir, to whom, among other legacies, he bequeathed this: "By right of legacy, I leave to the parish priest V. the land of Jankovacca, so that from its revenues, he may celebrate as many Masses as possible for me and for my ancestors." After the testator's death, the parish priest V., Matthew Benzon, soon obtained possession of said property; and, having fulfilled his obligation in kind, several other parish priests held the same property, thereby diligently fulfilling the obligations of the Masses. However, there were those who considered the legacy not to be perpetual, but personal and temporary, valid only for the benefit of one parish priest, until the death of the testator; therefore, upon the death of that parish priest, they believed that the property should revert as an inheritance to his heirs. Thus reasoned certain relatives of the testator; and, consequently, they obtained from the heirs of the aforementioned parish priest Benzon a transfer of rights regarding the legacy, and brought a lawsuit against that parish priest of that time in the civil court. SUMMARY OF THE FACTS.

[*Latin ed. p. 446*]

446. The exemptions [from certain obligations] were granted, so that the aforementioned property might be assigned to them, as if they were assignees of the Benzonis. The civil court's judgment, long after the dispute, assigned the property to the plaintiffs, even in spite of the renunciation by the Parish Priest, with regard to the matter in litigation. Having obtained possession of the property, they divided it among themselves into four parts. Some subsequently alienated their portion; others, however, trans-

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mitted it to their own heirs, as if it were free and entirely exempt from the burden of Masses. One of these heirs, however, who retained his portion, namely, Father Jerome and the tutor of three wards, despite the judgment of the civil court, considered that the will of the testator was more likely to have been that the aforementioned property, together with the obligation of Masses to the five parish priests, should be observed in the future; but the civil court did not comply with this, so that an Apostolic dispensation was necessary, so that his family might remain in safe and just possession of the one-quarter part that had been granted to them. On August 1, 1876, having presented a petition, he humbly requested the Supreme Pontiff to grant him permission, considering his own and his wards' poverty, to celebrate only a certain and determined number of Masses, both with regard to the past and with regard to the future, so that his family might remain free from all obligations, in order that he might safely retain possession of the one-quarter part of the inheritance. When consulted, the Bishop reported: the value of the one-quarter part of the property amounted to 5,000 florins, and the income to 40 florins; and he added that he and the Parish Priest would gladly comply with the petitioner's request. It must be noted that a copy of the court's judgment, by which the property was assigned to the heirs of the Parish Priest Benzoini or to the heirs of the testator, the same assignees, could not be produced. Some of these then sold their own portion to those who were able to ascertain the legality of this sale. Synopsis of the Arguments. FROM WHAT FAVORS THE PETITIONER. On the part of the petitioner, it appears that the authority of the res judicata [a matter already judged] is paramount, due to the judgment...

[*Latin ed. p. 447*]

EXONERATIONS 447. The civil court, by virtue of whose judgment the bequeathed property was restored to the heirs of Benzonii. Although a copy of the aforementioned judgment could not be produced, nevertheless, neither on the part of the subsequent Rectors of the Church, nor on the part of the possessors of that property, who are otherwise said to be apprehensive of their conscience, nor on the part of any other person, was there ever any doubt that the aforementioned property had been reclaimed by virtue of a judgment issued by the aforementioned court. All of this, the Advocate affirms, yet the Bishop does not contradict in any way. This matter, having been decided, derives its principal value and strength from the fact that the cession made by the parish priest, who was governing the Church at the time of the litigation, was the primary cause of it, having been made in court. Indeed, it is manifest that the renunciation, which is said to have been made by the parish priest in the litigation, was nothing other than a repudiation of the legacy, because in the same judgment, it was explicitly stated that "there was dispute concerning the reclamation of the property bequeathed by the testator to the Church, for the celebration of Masses."

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Moreover, the very fact that the parish priest could have repudiated the legacy suggests the uncertainty of the legacy itself, namely, whether it was bequeathed to the person, rather than to the Church: for it often happens that, with a view to friendship, or kinship, or some other similar cause, testators intend to confer a benefit more on the person of the Rector than on the Church. As Ferraris observes in the canon library, under the word "legatum" (legacy), number 172: "If a legacy has been bequeathed to a Bishop," or to some Rector of a Church, in order to determine to whom it is due, conjectures must be considered. For either the legacy has been bequeathed by a stranger, without any prior friendship or benefaction to the Bishop or Rector, but to the Church; or the legacy has been bequeathed by a relative, a kinsman, a friend, a benefactor, and the like; and in that case, the legacy is due, not to the Church, but to the Bishop or Rector; since it is considered to have been bequeathed solely with regard to the person, notwithstanding that the name of the dignity is expressed." It is clear that for a long time, a dispute arose between the successors of the parish priest and the relatives of the testator. Therefore, in this ambiguous situation...

[*Latin ed. p. 448*]

448. Regarding exemptions from a lawsuit, it should not be deemed illegitimate if the Parish Priest, who is the subject of the lawsuit, even though he may be in possession of the property, nevertheless withdraws from the dispute and relinquishes the inheritance. Indeed, there were various and weighty reasons why his Church should be exempted from the expenses and dangers of the lawsuit. Firstly, because he himself derived no benefit from the inheritance, since the fruits of the property were entirely used for the celebration of the Masses; secondly, because perhaps scandal might arise from the lawsuit, especially when the heirs of the testator are in need. In such cases, it is certainly more fitting for the Church to suffer a loss than to provide an opportunity for scandal, as Amato justly observes in his *Causes Piae*, book 4, chapter 42, number 54: "There are certain reasons by which a Prelate is excused if he renounces an inheritance: namely, when it would involve a grave scandal if he did not renounce it, because, leaving the poor destitute, the Church would receive the inheritance, as chapter 2 of the aforementioned work states. For it is more fitting for the Church to suffer a loss than to give scandal; or when the inheritance is so entangled in lawsuits that it would be difficult to accept it, because it is advantageous for the servants of God to be free from the noise of lawsuits, as stated in *De Syndicis*. However, as the Advocate affirms, all the possessors, according to the account of the lawsuit, never doubted the legitimacy of their possession. Therefore, a strong argument is derived from this to judge that the same sentence is just and firm: indeed, no investigation could be conducted about it other than through the restoration of things to their former state. For without this remedy, the sentence always has a presumption in its

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favor, and remains in a state of implied validity, as stated by Menoch in *De Praesumptionibus*, book 6, preface 62, number 9; Scaiux in *De Appellationibus*, question 49, remedy 2, number 46; Oddo in *De Restitutione in Integrum*, part 4, article 4, number 43; Cavaler in *Decretum*, 480, number 3; and the Roman Rota in *Decretum*, 543, number 44, part 48, stating: "when it is a matter of a sentence that has passed into a final judgment, and has been demanded for execution, and has been observed for a long time, and thus establishes a situation, so that it cannot be known except..."

[*Latin ed. p. 449*]

EXONERATIONS 449 » with prior restoration to its original state, while in the meantime it retains its presumption in its favor, and its status of validity ». However, from what has been adduced thus far, both from the ambiguity of the testator's will, from the judgment rendered concerning the legacy, and finally from the presumed and asserted renunciation by the rector of the Church, it appears that the legacy in favor of the then-living parish priest had indeed lapsed; consequently, the burden of the masses did not extend even to that person, when the testator added neither a word nor a phrase concerning the perpetuity of the burden. It is known that, in an ambiguous legacy, that which is less is always to be understood, as stated in *Rot. Rom. in Fanen. Divisionis super relicto* of June 18, 1880, § 6, before Ruspoli, "the other rule of law" applies, so that the legacy "must be restricted to the goods freely acquired by the testator"; for, since it does not appear what the testator clearly intended, and the legacy is entirely ambiguous, that which is less is to be understood in it, as has been certainly established according to the text in *leg. nam Severus* 39, § 6 ff., concerning legacies; also, *leg. 3, Rot. in Romana seu Sabinen, legati* of July 2, 1149, § 4, before Manual; *Romana legati* of December 5, 1808, § 2, before Bardaxy.

E. WHAT IS OBJECTED TO THE COUNSELOR. E. X, on the other hand, it must be carefully considered that, in establishing any rights and obligations towards the Church, a continuous possession of at least 40 years is required. Since the judgment of the civil court was rendered only around the year 1856, there is no basis for the aforementioned prescription, since barely twenty-three years have elapsed since the beginning of the possession. Therefore, the legacy, although legally reclaimed against the Church by a judgment, still remains subject to the burden of the masses; and no possessor can, with a safe conscience, retain his portion of it without satisfying the respective burden. It must be noted that there is a significant difference between the possession of the property and the burden of the masses inherent in it. Even if it is conceded that the civil court may have legitimately awarded the possession of the property to the heirs, considering the particular circumstances previously explained, they are nevertheless not exempt from the burden of the masses. *Acto, Tom. XII, fuse. C XLI.

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[*Latin ed. p. 450*]

4. EXONERATIONIS, quam potuit, excipitur. Hoc unice ad forum Ecclesiae pertinet; scilicet, si revindicatur etiam possessio pro hereditate Parochi, obligatio celebrationis missarum sequitur ipsum praedium, apud quoscumque detentores, cum non ob aliam causam ille testator praedium Parocho reliquisset, praeterquam ad celebrationem missarum ex fructibus illius satisfaciendam. Sacra namque et inviolabilis debet esse voluntas testatorum, et ex ipso profano iure religiosum semper fuit, juxta legem XII Tabularum, ut « uti quis de pecunia tutelave rei suae legassit, ita ius esto. » Hisce autem accedit, quod nec bona fides in possessione quartae partis praedii suffragetur oratori, quominus hanc eamdem partem praedii legitimo titulo detineat. Nam titulus ab actoribus deductus, aliquam fraudis suspicionem ingerit. Eo quod non ex iure proprio, sed ex iure haeredum Parochi Benzon, et tamquam eorumdem cessionarii, iudicium vindicationis instaurarunt contra Ecclesiam. Quum alioquin praedicti Parochi haeredes numquam possessionem prati fundi obtinuissent, facile quidem, vel precibus vel aliquo praemio, ut etiam tenuissimo ad promisso, cessionem iurium ab illis extorquere potuerunt Oratoris auctores. Hoc autem collisionem quandam praestituisset inter cessionarios et cedentes, quae ad intentionem testatoris eludendam et fraudandam fuisset directa. Quidquid coeteroquin sit de ratione, pia iudicium vindicationis praedii adstruere, atque amica sententiam obtinere valuerunt testatoris consanguinei, cum tamen sententia ipsa ex una desertione Rectoris Ecclesiae repetenda sit, nihil ferme eadem proficit ad legatum missarum in persona Oratoris et pro quarta parte ab eiusdem auctoribus occupata perimendum. Utut iamvero controversia aliqua de ambiguitate voluntatis testatoris, quoad personam legatarii, potuisset exagitari, onus missarum in eo quod respicit perpetuitatem, haud umquam posset in discussionem vocari; quippe quod cum sit satisfaciendum ex fructibus, non vero ex capite seu pretio fundi, ex eo ipso censendum est perpetuum, quemadmodum perpetui sunt fructus legati praedii. Scitissime enim per relatum Amostatium traditur, quod in legato Missarum, quando ex quali-

[*Latin ed. p. 451*]

EXONERATIONS 451. Regarding the matter entrusted, it can be presumed that the testator intended to perpetually grant suffrage, according to the fruitful nature of the very matter itself; therefore, the bequest itself is to be considered perpetual; thus, the aforementioned author writes in *De Causis Piis*, book 2, chapter 10, number 8: ”In cases concerning pious bequests, the legatee is presumed to be perpetual, not merely for a single occasion.” This same principle applies when, based on the nature of the be-

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queathed matter, it can be inferred that the testator intended the testator to perpetually offer prayers, or to perpetually fulfill the obligation of Masses, as if he had bequeathed a productive estate, and the one who annually rendered the pension, or the fruits, intended a perpetual obligation of Masses; for, from the nature of the bequeathed matter, it is known that the testator intended a perpetual obligation of Masses. Tiraquellus, *In Leg. Bov.*, § on the meaning of the word "perpetuus," fol. 18; Lara, *De Anniversar.*, book 1, chapter 3, number 29; Leon, *De Offic. Capellani*, question 5, section 1, number 6. When the case concerns an absolution regarding the celebration of Masses concerning the future, and especially concerning the portion of the property held by the testator, and not concerning an absolution regarding omitted celebrations of Masses due to poverty, it would seem unjust that this portion held by the testator should be freed from any obligation. With these premises established, the following question was to be resolved: How should indulgence be granted to the testator's prayers in this case?

RESOLUTION. The Sacred Congregation of the Council, after deliberation on February 15, 1879, decided that the following should be answered: "With a prior absolution regarding the past, for the sake of granting an exemption, twenty Masses are to be celebrated for a single occasion only, upon the condition that the words [specified words] are spoken to the Most Holy."

FROM WHICH WE GATHER: 1. The justice and firmness of a judgment that has passed into a res judicata, which cannot be otherwise judged or overturned, except through restitution in integrum; and that the judgment itself has, in the meantime, a presumption and a status of implied validity. 2. However, there is a great difference between the possession of something...

[*Latin ed. p. 452*]

452. The EXEMPTION is founded on the tithe and the burden of masses attached to it; thus, if any property has been awarded to someone through a civil judgment, that person shall never be considered exempt from the burden of masses, unless the authority of the Church intervenes. III. For the burden of masses, unlike the price of any property, is to be considered perpetual, being derived from the fruits of the property itself, just as the fruits of a bequeathed property are perpetual. IV. The nature of the bequeathed thing can reveal the character of the testator; thus, if the bequeathed thing is, by its very nature, productive, the perpetuity of the testator's intention can be demonstrated, or the testator's will to perpetually offer suffrage, as if referring to the revenues of the productive thing. V. Although in this matter it could be presumed that the burden of masses was intended to be perpetual in favor of the pious cause, nevertheless the Apostolic See has preferred to grant the grace of exemption, so that the Church would not appear to be receiving a legacy, leaving the related, consanguineous orphans in poverty.

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ESTABLISHMENT OF A LEGAL FOUNDATION. On June 21, 1879, the most pious woman, Smeralda Bordino, wife of Antonius Vagnoli, in her last will and testament, dated August 23, 1832, augmented the endowment of the already established lay legal foundation in the chapel under the title of the Most Holy Annunciation, located in the Cathedral Church of Melite, and imposed a burden on the Rector to say two masses each week... Furthermore, she stipulated that a property located on the island of Gaudisii, called "Cortin Herrin," should be given by her heir to two priests, one from Gaudisii and the other from Melite, both of the surname Bordino... with the obligation imposed on each to say two masses each week. Similarly, she bequeathed the other half of the land, called "De la Vigna," to a certain...

COMPENDIUM OF THE MATTER.

[*Latin ed. p. 453*]

CONCERNING THE ESTABLISHMENT OF RIGHTS 453. A priest was appointed with the charge of administering the endowment of Saint Mary of Ta Dibiegi on the island of Gozo. Finally, he read... the lands which she possessed on the island of Gozo, called Sened, with the obligation of celebrating two Masses each week. Considering the salvation of souls, Pope Pius IX, of blessed memory, in the year 1864, divided the Diocese of Malta into two, one of which retained the ancient name, and the other was called the Diocese of Gozo; from which it happened that more of the goods left by Smeralda were found within these boundaries. After the death of the aforementioned Prelate of the newly established See of Gozo, who held the administration of these goods with pious intent, the Capitular Vicar of Gozo considered it his duty to appoint an administrator to collect the revenues from the existing properties within his own Diocese, reserving the appointment of another administrator for the Archbishop of Malta, to collect the fruits from his own properties. However, the Archbishop of Malta considered the endowment to be a single benefice, and still entirely within his own Diocese, and therefore appointed an administrator, as before, over all of these properties. Then, the Bishop of Gozo appealed to the Sacred Congregation of the Holy See, requesting that the Archbishop be compelled to recognize his rights, so that the dispute could be resolved according to the established practices of the Holy See. The Archbishop of Malta stated that Smeralda Bordino, a Maltese woman, in her will of August 23, 1432, after confirming the assignment of certain properties, founded three other benefices in favor of the endowment established in the Chapel of the Annunciation in the Cathedral of Malta; and since these were not established in any particular church, all of them together constituted, from the most remote times, the benefice known as the "dei Vagnoli," established in the Cathedral of Malta. A purely legal dispute. THE RIGHTS OF THE BISHOP OF GOZO. The defender strives with all his might to demonstrate that

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there are four benefices, commonly called "dei Vagnoli," of which three are located within the boundaries of the Diocese of Gozo, and one is located in the Cathedral Church of Malta. To prove this, he cites Smeralda Bordino's disposition, from which it is clear...

[*Latin ed. p. 454*]

454 The most rigorous legal principles hold that there are four distinct foundations. To each foundation, specific obligations are attached, specific assets are assigned, and different priests are to be appointed by the heir, according to their designation. This is so true that the very heir, Antonius Vagnoli, when demanding the execution of the pious founder's dispositions, designated two priests to fulfill the obligations associated with the benefice of Cortin Herrin, one of whom was from the island of Gaudisia, and the other from Melevita. However, from this distinction of honors, with the reservation in each patronage and the appointment of different priests, it is clearly demonstrated that the testator intended to found multiple benefices, not a single one, as wisely taught in our case by the Rota of Melevita, in the legal matter of April 30, 1660, before Bevilacqua, number I. To this are added the decisions of the Most Holy Roman Rota itself, which has repeatedly held that there are multiple benefices in question, as can be seen, among others, in the aforementioned Melevita case and in another Melevita case concerning benefices, of the year 1778, before Riminaldo. These are further confirmed by the declarations of the Melevita Curia itself, which, both in the execution of the Apostolic letters of the year 1874 concerning a certain transaction initiated between the Bishop of Gaudisia, the Canon of Bono, and the Marquis Testaferrata, and in this recent matter presented to the Sacred Congregation, states that there are four benefices in question. Furthermore, as the Curia argues in the aforementioned report, these same benefices have been united from ancient times, so that today they appear as a single benefice. However, since no act of ecclesiastical authority is found that demonstrates the consummation of a definitive union of benefices, it must be firmly maintained that such a union has not occurred. This concerns a matter that is considered odious in law, as De Luca states in *De Beneficiis*, section 46, number 3, because, through the union of benefices, the number of clergy often decreases, to the detriment of souls. (Chapter 12 of *De Constitutionibus Tolosanis*, on benefices, section 13, number 1). Therefore, it cannot be presumed, but must be demonstrated with certain arguments. Even more so, because the cause of necessity or utility to the Church, which would justify such a decision, is lacking.

[*Latin ed. p. 455*]

455. It is argued that any income from benefices is sufficient to support the rector. It is wrongly objected that these benefices were granted only to a single rector: for this would imply only a personal and temporary union,

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arising solely from the will of the patrons, and certainly not a perpetual one. Having considered these points, the Advocate states that it is a well-known principle of law that the Bishop has the intention to exercise all kinds of ordinary jurisdiction, in any place and with respect to any persons within the boundaries of his Diocese; S. C. Congregationis, in Lucana Exemptionis, 13 Martii 1852, §. It is equally forbidden to doubt that the Bishop has jurisdiction over the institution of benefices within his diocese, as decided by the Rota, 567, part. 18, vol. 2, rec. However, it is a fact that three benefices, namely Ta-Dibiegi, Ta-Sened, and Ta-Cortin, are located within the boundaries of the newly established Diocese of Gaudisiensis. Therefore, by law, the right to institute these three benefices belongs to the Bishop of Gaudisiensis. But it is stated that a benefice is located where the office is performed, *Loth. De re benef.*, q. 13, n. 127. Since the offices of the benefices of Ta Tibiegi and Ta Cortin are performed in churches within the island of Gaudisiensis, it must be said that they were established there. Similarly, it must be concluded regarding the other benefice, Ta Sened, that if its endowment, or fund, is located within the territory of Gaudisiensis, and since no specific place was designated for the performance of the obligations, it must be considered to have been established where the endowment itself is located.

REGARDING THE JURISDICTION OF THE ARCHBISHOP OF MELEVITANI. Addressing the central question, the Advocate states: The Bishop of Gaudisiensis seeks to claim jurisdiction over the benefice only because some of the funds of that benefice are located within his own Diocese. However, the place where the assets of the benefice are located is not the location of the benefice itself, and therefore cannot be used to argue for the Bishop's jurisdiction, but rather it is the church or chapel where the benefice was established and where the obligations of the Mass are to be fulfilled, as stated by Antonellus, *de loc. legal*, lib. 1, cap. 8, no. 1 and following, and by others. With this established, he states that there are four pious legacies left by the spouses Vagnolo-Bordino: three pious bequests from the year 1432, perhaps at the time of the founding, which, due to the smallness of the revenues, were united and...

[*Latin ed. p. 456*]

456 It is affirmed that the institution of this benefice was incorporated as the first ecclesiastical benefice of the year 1419, and that it was subsequently erected into a titular benefice, assumed by all the united benefices under the single name of "the benefice at the Altar of the Annunciation in the Cathedral Church of Malta," as is evident from the records of the Melitan Curia and the Royal Decrees. In the legal proceedings concerning the patronage of Malta on June 16, 1659, before Bevilacqua, it is stated that whether there were several or one benefice – the benefice of the Vagnoli family – under §. Finally, it is stated: "Finally, it was not deemed

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permissible to admit that there were several, and not one, benefices, distinct from each other; because, although it may have different goods in several places, situated under the names of Rhabad, Baiada, Cortin, and Herrin, this does not imply a plurality of benefices, and, on the contrary, that it is one, is deduced both from the Decrees and from the judgments issued, in which it was always called the benefice at the Altar of the Annunciation." Even the last possessor of the benefice, Bishop Grech Delicata, held these four benefices as one, although, according to the law of its foundation, the benefice of Cortin-Herrin was to be divided, with half being assigned to a Maltese priest and the other half to a Gozitan priest, and there were more Gozitan priests at that time. Therefore, if three pious legacies of the year 1432 were united with the ecclesiastical benefice of the year 1419, undoubtedly erected "at the Altar of the Annunciation in the Cathedral Church of Malta," in which Masses were to be celebrated, the Archbishop of Malta enjoys jurisdiction over the entire benefice, since he has jurisdiction in his Cathedral, in which the Chapel and the benefice of the Annunciation itself exist. Indeed, in a union, the united benefice seems to be extinguished, and it acquires the nature, quality, and privileges of that to which it is joined; so states the Congregation in the *Forosempronien* legal proceedings of May 25, 1822. Furthermore, Pignatellus, in his *Canon Law*, Volume VIII, consultation number 6, as Cardinal De Luca states in *Beneficiorum Disputationes*, number 54, number 5, in an accessory and subjective union, the united benefice loses the name and essence of the benefice and becomes the property of the other, to which the union is made; as happens in the case in which three pious legacies were mixed and confused with each other, so that they assumed only the single name of the Annunciation, without any distinction.

[*Latin ed. p. 457*]

457. And, therefore, for many centuries, they have been granted to only one [person] at a time. But if the pious endowment was converted into a true ecclesiastical benefice, the Defender argues, many things now concur to show that this endowment, too, was established in the Cathedral Church of Melvita: first, because that Church is larger than any single diocese; second, because Smeralda Bordino, with her husband Tagnolo, founded a chaplaincy of the Annunciation in the Cathedral Church of Melvita, and there established a benefice under that name; third, because Tagnolo willed in his testament that a Melvita priest should celebrate Masses of the Cortin-Herrin benefice in that very chapel of the Annunciation; fourth, because, since all the benefices – of the Vagnoli family – were united for a long time, it is natural that Masses should be celebrated there, where other obligations of the same family already existed; fifth, because the Archbishops, in their canonical visitations, always spoke of the benefice – of the Vagnoli family – established in the Melvita Cathedral; sixth, because, in various

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legal proceedings, in which the rights of the parties and the nature of the benefice were examined in detail, it was always stated that it was founded in the Cathedral Church. Indeed, in the Decision of Melvita concerning Benefices, dated June 13, 1763, before Mannelli, it was stated: "regarding the benefices, which, through the pious generosity of Anthony de Vagnolo and his wife Smeralda Bordino, were founded three centuries ago in the altar of the Annunciation of the Blessed Virgin Mary in the Cathedral Church of Melvita." However, he continues, all difficulty arising from the legal decision of 1661 concerning the question of whether there was one or more benefices – of the Vagnoli family – is removed. Initially, it was decided that there was only one, as stated in the aforementioned Decision of Melvita concerning Patronage, dated June 16, 1659, before Bevilacqua. However, the matter being again and more strictly brought to the truth, in the Decision of Melvita concerning Patronage, dated April 30, 1661, before the same Bevilacqua, it was finally decided that, of the four benefices, only two were of patronage, in which the Ecclesiastical Authority subsequently placed its hand, either in the canonical institution or in the appointment of an administrator: namely, the original one of the Annunciation, and that which had the Cortin-Herrin estate. The other two, with a smaller endowment of funds from Siena and La Vigna, either remained simple pious bequests at the discretion of the heirs, or, rather...

[*Latin ed. p. 458*]

458. Those who *IURISDICTIONIS INSTITUENDI* [have the power to establish jurisdiction] held property mixed with two others, so that their particular name, and the area under their jurisdiction, for a period of two centuries and beyond, should no longer be mentioned in causes and in acts. Therefore, the Advocate stated, the benefit – that of the Vagnoli family – of lay patronage, is concluded by the judgment, and is conferred with two benefits: that of the Annunciation, and that of Cortin-Herrin. Whether these two benefits are united or not, must be considered. If they are united, by incorporation, that is, both objectively and subjectively, since the benefit of Cortin-Herrin was first added to that of the Annunciation, clearly established in the Cathedral Church of Melvita, then only that which exists under a certain jurisdiction of the Archbishop must be considered. But if they were never permanently united, then indeed half of the benefit of Cortin-Herrin could be given to the priest of Melvita, and the other half to the priest of Gaudisia, according to the designation of the patrons, according to the foundation; but this will never cease to be under the jurisdiction of the Archbishop, once it has been proven to have been founded in the Cathedral Church of Melvita, just as that of the Annunciation. Therefore, having considered these things, the following question was to be resolved by the Fathers: Is the right of institution *DUBIUM* [doubtful] in this case, and to whom does it belong? RESOLUTION. The Sacred Congregation,

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after deliberation on June 21, 1879, judged it fitting to respond: With regard to one of the two benefits founded on the property of Cortin-Herrin, the obligations of which are fulfilled in the Cathedral of Melvita, the right of institution belongs to the Archbishop of Melvita; but with regard to the others, to the Bishop of Gaudisia, and so on. FROM WHICH IT MAY BE GATHERED: I. The union of benefits cannot be made unless there is a serious reason, and evident benefit to the Church, with the consent of ecclesiastical authority; because the union with respect to the benefit to be united is odious, and seems to be an alienation.

[*Latin ed. p. 459*]

I. OF ESTABLISHING LAWS 459

II. Therefore, such a union of benefices should not be presumed, but must be demonstrated by certain arguments; and if these are lacking, it must be held that it has not occurred, since, through the diminution of benefices, the number of priests must decrease, and the divine worship must suffer detriment (i).

III. The endowment of a benefice, as an accessory, must follow the nature and consistency of the benefice itself; from which it follows that the benefice is said to exist where the office is performed.

IV. The true and proper union of benefices is that which is called subjective and extictive; and by which the united title somehow becomes the seat of that to which the union is made.

V. The Bishop has, by common law, a founded intention for the exercise of all his jurisdiction, within the boundaries of his Diocese, and has jurisdiction over the institution of benefices, according to can. Omnes Basilicae 16 quaest. 7.

VI. It has not been proven that the extictive union of titles was present in the aforementioned case for a grave reason and for the benefit of the Church; but rather that benefices of this kind were granted to the same person by the will of the patrons; from which it can only be argued that there was a personal and temporary union, and not a perpetual one.

(1) The Canons of Évora, seeking to diminish their own advantages, had attempted to reduce the number of prebends established from ancient times in the Church of Évora, so that the divine worship would be diminished without cause. "Those who," they said, "seek to diminish the worship of the divine, rather seek to augment it, and we command that the ancient number of prebends be restored, in order to increase the revenues of the Church." And in doing so, they asserted that they had acted with authority. Honorius III, in his Apostolic Constitutions, title Sedis Ex fort., chapter 12, concerning the authority of the young, wrote that in the aforementioned Church, this reduction had been made (notwithstanding any

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constitution that might have been given), so that it could be argued that it was granted to those persons who were suitable, even in the form established by the common law, and confirmed by the Holy Father; and that, by confirmation from the Canons or from Us, with the advice of the Bishop, the worship in this matter would be preserved.

[*Latin ed. p. 460*]

46. FROM THE SACRED CONGREGATION FOR INDULGENCES. Most Blessed Father. The Bishop of Crema, humbly kissing the Sacred Feet, implores Your Holiness to deign to grant an indulgence to the Christian faithful who shall recite the following prayer, attributed to Saint Thomas Aquinas; which should be said individually by ecclesiastical men, before undertaking their work, so that they may be more encouraged to engage in this commendable and efficacious act of piety. Wherefore, etc.

THE PRAYER OF SAINT THOMAS.

As is read in the liturgical books of the Order of the Most Holy Fathers Preachers, he frequently said this prayer before writing, preaching, or celebrating the Divine Office.

"O ineffable Creator, who from the treasures of your wisdom, have designed three hierarchies of Angels, and placed them in the heavens in a wondrous order, and have arranged all things most elegantly, you, indeed, who are called the true source of light and wisdom, and the most excellent principle: infuse into the darkness of my understanding the ray of your clarity, removing from me the two darknesses in which I am born, namely, sin and ignorance. You who make the tongues of infants articulate, enlighten my tongue, and pour forth the grace of your blessing upon my lips. Grant me the keenness of understanding, the capacity of memory, the manner of learning, and the ability to interpret; bestow upon me abundant grace of speech. Instruct my entrance, direct my progress, and complete my exit. You who are the true God and man. Who live and reign world without end. Amen."

[*Latin ed. p. 461*]

PRAYER OF SAINT THOMAS 46. The Most Holy Pope Leo XIII, in an audience held on February 21, 1880, by the undersigned Secretary of the Sacred Congregation for Indulgences and Sacred Relics, graciously granted to all the faithful, of both sexes, who shall, at least with a contrite and devout heart, recite the aforementioned prayer, beginning with "Creator ineffabilis," etc., a plenary indulgence, to be gained once per day. This grant is valid forever, without any need for a brief. Notwithstanding any contrary provisions. Given in Rome, from the Secretariat of the Sacred Congregation for Indulgences and Sacred Relics, on February 21, 1880. A. L.

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CARD. OREGLIA, Prefect of S. Stefano. Pius Delicati, Secretary of the Sacred Congregation for Indulgences. The Secretary, before presenting the aforementioned prayer to His Holiness Pope Leo XIII, in order to seek an increase in the indulgence, deemed it prudent to obtain an opinion regarding it from a distinguished member of the Order of Preachers. This Reverend Father, fulfilling the Secretary's mandate, expressed his views on the matter as follows: OPINION OF THE CONSULTOR. Reverend Father. I beg leave to offer some preliminary observations regarding the Prayer of Saint Thomas, which begins with "Creator ineffabilis," concerning which my opinion is sought, given the request for certain indulgences related to it. Father Echard, subjecting the works of the saintly Thomas to a subtle critical examination, distinguishing between genuine, spurious, and uncertain works, in Volume I, page 344, speaks of the works attributed to the saint: he rejects some, admits others, but considers some to be uncertain. Then, the same author, speaking of certain prayers believed to be of the same saint, also speaks of that one which begins...

[*Latin ed. p. 462*]

462 ORATIO SANCTI THOMAE « Creator ineffabili? » qui de thesauris sapientiae...» quamque dixit, haud in antiquis reperiri codicibus, sed primum relatam fuisse in Missali anno 1413. Attamen criticus ille auctor eamdem uti spuriam haud respuit; sed probabile esse censuit, quod per traditionem appenderetur in Sacristia s. Iacobi Parisiorum, nostri Ordinis, e quo loco in Missali nostri Ordinis saeculo XV inserta fuit. Neque reperitur oratio haec in editionibus s. Pii V, neque in aliis magnis eorumdem operum sancti Doctoris editionibus, vel Coloniae vel Parisiorum. Item De Rubeis in suis doctis dissertationibus, numquam de hac oratione verba fecit, sive in operibus genuinis, sive in spuriis aut incertis. His non obstantibus, multa cum probabilitate divo Thomae ad iudicari posse videtur oratio illa: eoquod antiqui auctores, forsan censuerint sibi haud loquendum esse de parvo opere huiusmodi, quod tamen ad nos traditio tulit. Hisce animadversis, quum certum sit, quod divus Thomas numquam studio operam dederit, quin prius orationi vacavisset; et traditio apud nos ferat quod s. Doctor orationem studio praemittent, cuius initium « Creator ineffabile » cui nullam adhuc indulgentiam largi tam fuisse reperto; ideo censerem quod aliqua largiri possit indulgentia, eamdem recitantibus, eo etiam de consilio ut studiosi, exemplo s. Doctoris, ad orationem studio praemittendam alliciantur, ut lumen a Deo quisquis consequi valeat, quo ad veram scientiam comparandam opus est. Aliquid etiam mihi liceat addere quoad orationem, quae, una cum supplici libello, excusa exhibetur. 1. Quod titulum attinet, illum praeferrem qui in compluribus ex nostris libris liturgicis reperitur, nempe «Oratio s. Thomae (praeparatoria ad studium) quam frequenter dicebat, antequam dictaret et, scriberet, aut praedicaret.» 2. Quod oratio integra typis consignetur, qualis est illa quae Sancto tribuitur, et

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quod post verbum qui expungantur puncta sufficiendo verba. Quod error typographicus eliciatur, quo fit ut legatur in quas potiusquam in quibus; qui certo certius divo Thomae tribui nequit. Quod tandem post

462 THE PRAYER OF SAINT THOMAS « Creator ineffabili? » who from the treasures of wisdom...» and which he said, is not found in ancient codices, but was first recorded in the Missal in the year 1413. However, that critic does not dismiss it as spurious; but he considered it probable that it was appended by tradition in the sacristy of Saint James in Paris, of our Order, from which place it was inserted into our Order's Missal in the 15th century. This prayer is not found in the editions of Saint Pius V, nor in other major editions of the works of the Saint, either in Cologne or in Paris. Furthermore, De Rubeis, in his learned dissertations, never spoke of this prayer, whether in genuine works, or in spurious or uncertain ones. Despite these things, it seems to me that, with much probability, this prayer can be attributed to the blessed Thomas; and that perhaps the ancient authors considered it unnecessary to speak of such a small work, which nevertheless has been handed down to us through tradition. With these observations, since it is certain that the blessed Thomas never devoted himself to study without first reciting this prayer; and tradition among us states that Saint Thomas would recite this prayer before study, the beginning of which is « Creator ineffabile » to which no indulgence has yet been granted; therefore, I believe that some indulgence could be granted to those who recite it, and also that, by counsel, students, following the example of Saint Thomas, should be encouraged to recite this prayer before study, so that everyone may obtain the light from God which is necessary to attain true knowledge. Something else also may I add concerning the prayer, which, together with the brief, is presented. 1. As for the title, I would prefer the one that is found in many of our liturgical books, namely «The Prayer of Saint Thomas (a preparation for study) which he frequently said, before dictating and writing, or preaching.» 2. That the prayer be consigned in its entirety to print, as is that which is attributed to the Saint, and that after the word which is omitted, the words should be punctuated. That a typographical error occurs, by which it is read in which rather than in whom; which certainly cannot be attributed to the blessed Thomas. And finally, after.

[*Latin ed. p. 463*]

ORATIO SANCTI THOMAE 463: "Verbum compleas, implementum addatur." "Tu qui es verus Deus et homo. Qui vivis et regnas in saecula saeculorum. Amen," sicut legitur in libris nostris. Romae, apud Sanctam Mariam supra Minervam, die 21 Ianuarii 1880. Addictissimus servus, Frater Raimundus Bianchi, Procurator Generalis Ordinis Praedicatorum.

EX 8. CONGREGATIONE RITUUM DECRETUM:

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"Quo Sororibus Sancti Vincentii a Paulo Civitatis Castelli indulgetur, ut die 19 Iulii in earum Ecclesia Missae omnes sint de s. Vincentio."

"Sacra Congregatio Rituum, utendo facultatibus sibi specialiter a Sanctissimo Domino N. Leone Papa XIII tributis, attento praesertim commendationis officio Reverendissimi Domini Episcopi Dioecesani, ad exaudita preces Sororum Oblatarum a Sancto Vincentio a Paulo nuncupatarum, in nosocomio Civitatis Castelli suam charitatis operam navantium, benigne indulsit, ut die XIX Iulii, in qua in praefata dioecesi officium peragitur Sancti Symmachi Papae Confessoris, in earum ecclesia missae omnes valeant esse propriae de eodem Sancto Vincentio, ipsarum Sororum Instituti Fundatore; dummodo tamen quando praefata dies in dominicam incidit, non occurrat festum aliquod mobile duplicis primae classis, quoad missam solemnem, et duplicis etiam secundae classis quoad missas lectas; Rubricae serventur, ac praesens indultum exhibeatur in Cancellaria Curiae Episcopalis Civitatis Castelli, antequam executioni mandetur. Contrariis non obstantibus quibuscumque."

Die 1 Iulii 1879.

D. CARD. BARTOLINIUS,

S. R. C., Praefectus.

Pro Reverendissimo Patre Domino Placido Ralli, Secretarius.

Ioannes Can. Ponzi, Substitutus.

[*Latin ed. p. 464*]

464 DECREE Concerning the beatification and canonization of the venerable Servant of God, Januarius Maria Sarnelli, Priest of the Congregation of the Most Holy Redeemer. Whereas, on the 14th of November, 1878, the Most Holy Pope Leo XIII graciously granted permission that an inquiry be held in the Ordinary Congregation of Sacred Rites, without the intervention or vote of the Consultors, concerning the fame of sanctity of life, virtues, and miracles of the aforementioned Venerable Servant of God, Januarius Maria Sarnelli, at the request of the Reverend Father Brixius Constantinus Queloz, General Procurator of the Congregation of the Most Holy Redeemer and Postulator of this Cause; and whereas, the Most Eminent and Reverend Cardinal Aloisius Bilio, Promoter of this Cause, proposed the following question to be discussed in the Ordinary Congregations of Sacred Rites, held at the Vatican on the designated day: "Does it appear that the Process of Naples, constructed by Apostolic Authority, concerning the fame of sanctity of life, virtues, and miracles of the aforementioned Servant of God, is valid and relevant in this case and to the effect of what is being considered?" The Most Eminent and Reverend Fathers, entrusted with the safeguarding of sacred rites, having carefully considered all matters, and having heard the voice and written testimony of the Reverend Father Lau-

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rentius Salvati, Promoter of the Holy Faith, judged it necessary to respond: "Affirmatively." On the 18th of December, 1879. These matters, having been faithfully reported to the Most Holy Pope Leo XIII by the undersigned Secretary, His Holiness approved and confirmed the decree of the Sacred Congregation. On the 8th of January, 1880. D. Card. BARTOLINIUS, S. R. C., Prefect. L. f S. Placidus Rolli, S. R. C., Secretary.

[*Latin ed. p. 477*]

VI. Regarding I. Negative. Regarding II. Considering what was stated above, and granting the Decree issued in Mexico on April 4, 1620, which states: In the City and Diocese of Mexico, the Ceremonial [book] must be observed, and the Archbishop must, according to his prudence, provide that abuses introduced concerning ecclesiastical rites and ceremonies be corrected, according to the prescriptions of said Ceremonial. On June 22, 1874. SANCTI IACOBI DE CHILE. The Most Reverend Dom Raphael Valentinus Valdivieso, Archbishop of St. James of Chile, humbly requested a solution from the Sacred Congregation of Rites regarding the following doubts:

DOUBT I. Since in this region, from ancient times, it has been the custom for the celebrant, whether a Prelate or a simple Secular or Regular Priest, and especially if he is a Bishop in parts among the infidels or in a foreign Diocese, who is to give a homily during the solemnities of Mass, to request a blessing immediately after the Deacon has sung the Gospel: Is it permissible, considering this established custom?

DOUBT II. And, if so, with what words can he who imparts the blessing to the one who will give the homily, speak?

DOUBT III. Furthermore, it is asked whether he who has the faculty of granting Indulgences, whether he himself solemnly celebrates, or if in a Mass celebrated by another, he gives a homily after the Gospel, can grant the aforementioned Indulgences to those present, and publicly announce them from the pulpit or ambo?

477 The Sacred Congregation, having heard the written opinion of another of the Masters of the Apostolic Ceremonies, having approved the proposed doubts, responded as follows:

Regarding I. It can be permitted: but he who is to give a homily should not request a blessing immediately after the Deacon has sung the Gospel, but rather, after the Gospel has been sung and the Celebrant has been thurified.

Regarding II. The Celebrant who gives the blessing to the one who will give the homily can use the same words that he uses when he blesses the Deacon who is about to sing the Gospel, changing only the word "Gospel" to "his holy words," and saying: "May the Lord be in your heart and on your lips, that you may worthily and appropriately proclaim his holy words. In

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the name of the Father, etc."

Regarding III. The Ceremonial of Bishops, chapter 25, book I, should be observed, where it is clearly stated when and how Indulgences are to be granted and publicly announced by the Bishop. And thus it responded and ordered to be observed on July 1, 1874.

SEBENICEN. The Most Reverend, the present Vicar Capitular of the Diocese of Sebenicen, in that episcopal see being vacant, in order to resolve a certain controversy that had arisen between the Very Reverend Monsignors Canons and the Parish Priest of the Cathedral of that Church, humbly requested a solution from the Sacred Congregation of Rites regarding the following two doubts:

[*Latin ed. p. 478*]

478 APPENDIX VI. QUESTION I. Given the particular structure of the Cathedral of Sebenico, and the secular custom prevailing therein, can the Most Holy Sacrament be reserved in the main altar, even more so since it is not forbidden by the Ceremonial of Bishops, but only deemed less suitable? QUESTION II. During a Pontifical Mass celebrated by the Most Reverend Bishop, even if he himself stands at the pulpit to deliver a homily until the very end of the sanctuary, must the Most Holy Eucharist be removed from the main altar?

The Sacred Congregation, having heard the written opinion of one of the Masters of the Ceremonies of the Apostolic See, and having approved the questions submitted, responded as follows: To I: Negatively. To II: As provided in the first. And thus it responded and ordered to be observed on February 6, 1875.

TO THE MOST REVEREND FATHER, JACOB OF CHILE.

As a brother, I write to you. Since a considerable controversy has arisen in the Archdiocese entrusted to your Eminence regarding the truth of the Apparition of the Blessed Virgin Mary in the choir of the Monastery of the Order of the Blessed Virgin Mary of Mercy, for the Redemption of Captives, your Eminence has deemed it fitting to present the entire matter to the Congregation of Sacred Rites, and to humbly request a solution to the following questions:

QUESTION I. Is it established with sufficient certainty regarding the authenticity of the aforementioned Apparition of the Blessed Virgin Mary, that books in which such an apparition is recounted as a miracle may be printed, and that prayers mentioning this same prodigy may be recited in public prayers?

QUESTION II. Is it permissible in a church to present this miracle to the faithful for public veneration, depicted or sculpted, and to display an image of the Blessed Virgin, dressed in the habit of the Order, seated among the

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religious during the recitation of the canonical hours?

Furthermore, the Sacred Congregation, having heard the report on all matters made by the undersigned Secretary, and having carefully and thoroughly considered everything, and having heard the vote of the Reverend Father, Father Laurence Salvati, Promoter of the Holy Faith, responded as follows:

To I: Although the aforementioned apparition has not been approved by the Apostolic See, nevertheless it has not been reprobated or condemned by the same, but rather it has been permitted as something to be piously believed, based on human faith, according to a pious tradition, as they say, confirmed by suitable testimonies and monuments. Therefore, nothing prevents the Most Reverend Archbishop from permitting it, provided that, if it concerns a work printed, a suitable declaration or protestation is added in the same sense, referring to the decrees of Pope Urban VIII.

To II: The aforementioned images can be tolerated, provided they are not displayed on the altar. However, for the reasons pertaining to the purpose of my office, I have informed the Sacred Congregation of your Eminence, and I wish your Eminence lasting and heartfelt joy.

[*Latin ed. p. 479*]

To Your Eminence, Rome, 6th of February, 1875. As your most devoted brother; – To the Most Reverend and Reverend Lord, as to my Brother, the Archbishop of Santiago of Chile. I earnestly desire you lasting spiritual joy. To Your Eminence, Rome, 6th of February, 1875, Your Brother. – To the Most Reverend Lord, as to my Brother, the Bishop of Mantua.

MANTUAN BALNEOREGIAN.

Most Reverend Lord, as to my Brother,

Your Eminence has informed the Congregation of Sacred Rites concerning matters within the diocese entrusted to you: that the Blessed Sacrament is to be administered to the sick in secret, without any outward sign of reverence, even when there are no grave reasons that would suggest such a practice; and also that, in the solemn Mass, even in a Pontifical Mass, a Deacon should read the Gospel above the altar, in the area where the Subdeacon, Acolytes, and Thurifer also stand.

Since Your Eminence has endeavored in every way to ensure that what is prescribed by ecclesiastical laws and rubrics is observed in both matters, the same Sacred Congregation humbly requests that Your Eminence would be pleased to declare what is to be thought concerning these practices, and whether, considering the established custom, they are to be tolerated.

The Sacred Congregation, having heard the report made by the undersigned Secretary, as well as the opinion of the Most Reverend Lord Augus-

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tine Caprara, Assessor of the same Sacred Congregation and Subpromotor of the Holy Faith, has declared that these practices are not customs, but abuses that must be entirely abolished, and has ordered Your Eminence to prohibit them, even in the name of the Sacred Congregation, as it may deem most fitting.

While, in virtue of my office, I communicate to Your Eminence the sentiments of the Sacred Congregation, the Most Reverend Lord, the current Bishop of Balneoregian, has presented the following to the Congregation of Sacred Rites:

The city of Balneoregian consists of two districts: the city proper and Rota. The district of Civita was formerly the more noble part, in which was located the Cathedral Church and the Episcopal See. Due to frequent earthquakes, Civita was almost leveled. Pope Innocent XII, with his Bull dated the tenth of March, 1699, which begins with the words "Super Universas," suppressed the status of the Cathedral [of that church], and erected it as a simple parish church, assigning its administration permanently to one of the Canons, exempt from the obligation of the choir, and transferred the Episcopal See and the Cathedral to Rota.

After the transfer, the compilers of the calendar, as before, continue to assign the 29th of September each year as the Anniversary of the Dedication of the old Cathedral, with a Solemnity of the first class with an octave for the district of Civita, and a Solemnity of the first class without an octave for the diocese: which continues to be the case, although there is no mention of this privilege in the aforementioned Bull.

Since this practice appears to be incorrect to the aforementioned Most Reverend Bishop, he has humbly requested the following questions to be answered by the same Sacred Congregation:

QUESTION I. Whether the new church...

[*Latin ed. p. 480*]

APPENDIX VI. 480. Those who stand near the altar, according to the Cathedral's regulations, beyond the anniversary of the parish church, if the celebration of the anniversary of the dedication can be conveniently held, they should be removed; and afterwards, they should not be buried in those same places. And so it was decreed and ordered to be observed on April 2, 1875. Under what circumstances is a double first-class relic with the octave, and a diocese under the rite of a double first-class relic without the octave, to be observed?

VICENTINE DOUBT II. Should at least, for this reason, more than a hundred years be taken into account?

The Most Reverend [Cardinal] explained to the Chapter of the Cathedral, which had been legitimately convened according to the regulations of 1873, that the Sacred Congregation of Sacred Rites, having carefully con-

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sidered the matter, had decided to respond negatively to both questions. And so it was decreed and ordered to be observed on April 2, 1875.

NICOTEREN AND TROPEIEN.

The Most Reverend Aloisius Vaceari, Bishop of Sinop, and the Coadjutor of the Most Reverend Bishop of Nicoteren and Tropeien, informed [the Cardinal] that in the dioceses of Nicoteren and Tropeien, several burials were found which were not more than three cubits from the altar, contrary to the laws of the Church. Since the change made seemed more convenient to some of the canons, [the Cardinal] decided to refer the matter to the Congregation for the Rites of the Clergy, and humbly inquired whether the innovation caused any offense. The aforementioned orator, on behalf of the Sacred Congregation, humbly requested that the existing burials be allowed to remain, provided that, in the future, the laws prescribed by the ecclesiastical authorities be observed in the construction of new tombs. The Sacred Congregation, having heard the report of the aforementioned Secretary, having carefully considered the matter, decided to respond as follows: The innovation is to be disapproved. And so it was declared on April 2, 1875.

This, for the sake of my office, I signify to you, and I pray that you may experience lasting joy.

To the Most Reverend [Cardinal], from your brother, Riño.

To the Most Reverend Bishop of Vicenza.

[*Latin ed. p. 481*]

481 LETTERS OF THE MOST HOLY POPE LEO XIII TO THE ARCHBISHOP OF COLOGNE; IN WHICH HE STATES THAT, FOR THE SAKE OF PROMOTING CONCORD, HE WILL TOLERATE THAT THE NAMES OF THE SOULS OF PASTORS BE PRESENTED TO THE PRUSSIAN GOVERNMENT, BEFORE CANONICAL INSTITUTION.

LEO XIII, POPE. Venerable Brother, greetings and the Apostolic Blessing. With a most willing heart, we have read the commentary recently published by you on Our Encyclical Letters, in which we deplored the evils of socialism. We consider that you, Venerable Brother, have expended a most opportune and useful effort in explaining the salutary documents and paternal admonitions which, explaining the doctrine of the Catholic Church, we delivered on this very subject last year. For the grave and pernicious pestilence of socialism, which increases day by day and profoundly corrupts the right sense of the people, derives its strength from the fact that the light of eternal truths is obscured in the minds of many men as if by the darkness of errors, and that the immutable rules of conduct which Christian discipline transmits are rejected; it can never, indeed, be restrained and stopped, unless the supreme reasons of justice and honesty are brought

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back to the minds of those who have been deceived. These, with the help of divine grace, have the power to turn corrupted wills to healthier purposes, and to lead both individuals and entire peoples to the fulfillment of their duty and to the path of virtue.

But since Christ has demanded this most excellent service of His Church, He has also attributed to it power and has infused virtue into it, entirely worthy of fulfilling this task. And indeed, all the nations of the world bear witness to this, which the Church of Christ has drawn out of the darkness of errors and led into the light of evangelical truth. This very salutary service is, above all, the duty of Ourselves, Venerable Brother. For although in Our age, in the arts which pertain to the cultivation of life, and in Acta, Tom. Xli, fase. CXLII.

[*Latin ed. p. 482*]

482 The remarkable and incredible progress made in the natural sciences is undeniable; yet, the corruption of morals increases sadly day by day. And since we know, having been taught by the history of former centuries, that it is not the progress of the arts and natural sciences, but the study devoted to understanding and fulfilling the law of Christ, that brings salvation to nations and prevents them from ruin, we earnestly desire that the Church of Christ may everywhere enjoy its freedom, so that it may be able to impart the salutary doctrine of this law to the nations, to stir up their hearts to love for Him, and to foster that love through the ministry of the priesthood, so that it may bear abundant fruit in the hearts of men. And we desire this all the more, Venerable Brother, for the prosperity and good of your illustrious homeland, which has been so greatly aided by the labors of the holy Boniface, and by the blood of many martyrs, and by the virtues of outstanding men, who now enjoy the glory of the heavenly kingdom.

Furthermore, another year has passed since we requested that your prayers and the prayers of your faithful be joined with ours, so that the God, rich in mercy, may, granting our wishes, happily restore the desired freedom to the Church in the German Empire. It has not yet happened that we have received news of the fulfillment of our hopes; but, with firm hope, and with the help of divine grace, we trust that our efforts will achieve the desired outcome. Gradually and little by little, vain suspicions and the unjust animosity that often arises from them, will diminish and collapse. And those who are in charge of public affairs, seeing the reasons for the facts with a just and good mind, will easily understand that we are not those who infringe upon the rights of others, and that a stable harmony can exist between ecclesiastical and political power, provided that both, whether for the preservation of peace or for reconciliation, where necessary, maintain a friendly will. This is what we are, this is what we desire, Venerable Brother, and it is clearly and thoroughly known to all the faithful of Germany; indeed, we cherish this desire so firmly that,

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seeing the good that will result for the salvation of souls and for the public order, we do not hesitate to declare to you that we will be willing to suffer, in order that, before the canonical institution, the names of priests may be presented to the Prussian government.

[*Latin ed. p. 483*]

LETTER 483 concerning those whom the Ordinary of the Diocese calls to the care of souls, as part of their solicitude. Meanwhile, Venerable Brother, let us earnestly implore that our Lord Jesus Christ may deign to move the hearts of all, and may graciously accomplish that each one may contribute, according to the nature of their office, to the restoration of His Kingdom, not only in the souls of individuals, but in the entire human society. May the anticipation of all blessings and the pledge of our most profound affection be our Apostolic Benediction, which we impart to you, Venerable Brother, and to the entire flock over which you preside, with heartfelt love in the Lord. Given in Rome, at St. Peter's, on the 24th of February, 1880. In the third year of Our Pontificate.

ADDRESS of the Most Blessed Father D. Tripepi, delivered before the Most Holy [Father], in the name of the sciences, on March 7, 1880.

MOST BLESSED FATHER, who, by the grace of God, have been raised to the See of Peter, and who show the Church as the parent and teacher of civil humanity, and teach kings and peoples that she is also the one and only source and safeguard of the common good: recently, moved by the extreme danger that is present, you have strongly urged the restoration of Christian wisdom, according to the norms of the Angelic Doctor.

You, most holy Father, from the Vatican and from your throne, as a watchman of the Lord, foresee that the bitterness of our times has reached such a point that men, deceived by their pride, not only wound Religion with the greatest sacrilege, and daily inflict new injuries upon it, but also seem to undermine the very foundations of human society, and either weaken or, rather, extinguish the light of reason.

Therefore, knowing thoroughly that there is no remedy for these evils unless the principles of true knowledge are restored to their former dignity, you have divinely undertaken the patronage of Philosophy, united with the cause of Religion, in a close alliance. And with incredible applause from the Catholic name, you have entered into a competition for the truth.

[*Latin ed. p. 484*]

484 To Aquinatum, the prelate, who, not undeservedly compared to the Sun, has claimed for himself the foremost place in refuting errors. – Having achieved this victory, as the Apostles would say, "You, most valiant Lion, open that book which the enemies of the Church have perpetually sealed and considered consigned to oblivion; you revive that wisdom which they declared dead, and you restore youth to a society growing old with the

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empty tenets of philosophers; you rekindle the sacred flames which have been dimming for three centuries, and, surpassing the excellent deeds of Urban V and Benedict XIII in this regard, you demand a monument more lasting than bronze, which alone may be sufficient to compare with your immortal name." – Having begun this undertaking with the greatest love, we, who here cultivate the sciences, in order that no mark of ingratitude may be imprinted upon us, shall not be able to refrain from prostrating ourselves at your feet on a pilgrimage, both suspect and most auspicious, and from declaring, with all our hearts, the sentiments we hold. – However, we do not consider it our duty to extol the wisdom of the Angelic Doctor, nor your own, most blessed Father, outstanding merits for human society. Indeed, if we were to devote ourselves to such a task with equal zeal and diligence, we would be surpassed by those who, everywhere among the nations, are celebrated with the clearest agreement of thought and word, and who have even been able to inspire admiration in the hearts of their opponents. Rather, it is fitting for us to congratulate the entire Christian cause, and to offer you, most holy Father, eternal thanks for the benefit conferred upon the human race; and may it be added to our praise that, adhering faithfully to your teachings, as Peter himself said, we shall not be separated from you; and that, as Jerome warned, he who does not gather with you is scattered. This voice of faith and reason, not departing in the slightest from your admonitions, must not depart from the Lord of all knowledge. Having entered the path you have marked out, we shall follow the doctrine of Thomas, free from ambiguities, fogs, and delusions; we know no other masters who divide schools; we reject other systems, which, whether inept or pernicious, seek to conceal and preserve religion in this our age, and to suppress the errors that are rapidly spreading. If our adversaries raise the banner: "Tolle Thomam" (Take away Thomas), we declare: "We have dedicated our minds to Thomas and to Leo." Armed with these principles, guided by Aquinatum, like an army of soldiers, we shall vigorously attack the most formidable enemies, and we shall strive to bring salvation to society, which is now on the verge of utter ruin, unless the doctrine affirmed by the Roman Pontiff is restored to the schools. And in order to achieve this more effectively, there is nothing we desire more, most blessed Father, than to dwell upon the examples you have set, when, as a young man fifty years ago, you so skillfully conducted a public disputation in the Gregorian University of Athens, that you appeared to the most learned men to be worthy of holding the highest positions, and you aroused that hope which is the vicariate of Christ.

[*Latin ed. p. 485*]

LETTER 485. You have recently completed your summer. – Meanwhile, endowed with the supreme teaching authority of truth, continue to instruct us with the proofs of your wisdom. Speak, Most Holy Father; to you the

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words of eternal life have been entrusted; and your sons and servants, having come from all parts of the earth, stand ready with eager ears to hear your voice. It is for you to indicate what you will; it is our duty to strive to fulfill, to the best of our ability, the wishes of the unerring Master. You, shining forth as a light from heaven, have fixed our gaze, and we constantly turn our minds and eyes towards you. The difficulties that beset us, the harvest, and the war, which grows more fierce each day, do not deter those who, not knowing how to abandon you, and suspecting great things, are prepared to endure hardships; under your guidance, certain of the supreme help of God, a certain victory is assured. – Therefore, as you begin your third year as Pontiff, may God look favorably upon your labors undertaken for the sake of the Christian cause, and may He preserve you in good health, for a long time, so that, having cast aside the hatred of enemies, you may gather more abundantly the fruits of your wisdom, that those who are entrusted with the guidance of peoples and public affairs may heed your exhortations, that the sciences, scattered by the tempest, may be brought into port, and that, having attained the highest honors, you may promote true and just principles to the glory of the old. – But all these things you will accomplish if you happily and with supreme authority designate Saint Thomas Aquinas, whom you command us to follow as our guide and master, and as the heavenly patron of universities and Catholic schools, in whose faith those who cultivate the sciences will place themselves. – Finally, our last wish is that these things may prosper; therefore, do not neglect, Most Blessed Father, to bestow upon us your Apostolic Blessing, which may add strength to our spirits as we prepare to confront those who oppose the truth, which may support our efforts in the hope of a better age, and which may provide us with new strength from God, with which we may strive more zealously for the dignity and rights of the Catholic faith.

[*Latin ed. p. 486*]

486. LETTER OF ADDRESS. In this, the Most Holy Father Leo XIII responds to Catholic scholars, expressing great joy at the service they render to him; and he promises them the Angelic Doctor as the patron of all branches of knowledge and of the fine arts, in Heaven. It is a source of great pleasure and delight to Us, beloved sons, to see you, distinguished and renowned in every field of learning, who have come together today, on this sacred occasion commemorating Saint Thomas Aquinas, the Angelic Doctor, with such a commendable purpose, to demonstrate your obedience and devotion to this Apostolic See, and to the common Father and Teacher of Christians. — And the words spoken on your behalf by that eminent man who presides over you, are so lovingly and wisely expressed, that they bring to Our mind no small consolation. It is a cause for rejoicing, and for offering special prayers of thanksgiving to God, that there is such

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a large number of outstanding men for whom the highest law is to join the praise of learning with the love of religion, and to cultivate the arts of humanity in such a way that they may honor, with equal zeal, the divine authority of Jesus Christ and of the Church. Therefore, we commend your wisdom, we commend your virtue, beloved sons, for you demonstrate in deed that obedience to the Christian faith does not harm, but rather greatly benefits, human reason; for men then perceive and attain the truth more readily and securely, if divine faith, like a light, precedes them. Those who deny this, or who do not understand it at all, are to be pitied for erring in a very important matter. Indeed, we see many who belittle or completely reject the truths divinely revealed, because they believe that they cannot be reconciled with the advancements of human knowledge and with more recent opinions; and they fiercely attack the divine power of the Church, considering it to be an enemy to the rights of civil society, to the majesty of princes, and to the prosperity of the people. But if anyone should investigate the cause of these errors more carefully, he would understand that it lies primarily in the fact that in our own times, as the study of natural things becomes more fervent, so too have the disciplines become more severe and more demanding: some things have almost fallen into oblivion; some are treated with negligence and superficiality; and, which is unworthy, they are corrupted by the perversion of opinions and by monstrous notions. — Hence, the light of the greatest truths is almost extinguished in the minds of many; hence, not only in individual men, but...

[*Latin ed. p. 487*]

LETTER 487 concerning the common ruin derived from public affairs. The very principles of that "new law," as they call it, which are so widely experienced to be harmful to states, are based on vain and deceitful philosophical fallacies. Let us take as an example the principle of a principality not subject to human reason; the equalization of true and false rights; the equal consideration given to all religions; unrestrained freedom, or rather, the power to say anything, in which they claim that no one is completely innocent, either in thought or in action. Therefore, in such a state of disturbance of souls and confusion of affairs, a most suitable remedy is available to man in sound and solid philosophy, if it is cultivated wisely and diligently. For it is clearly born and suited to both rejecting the erroneous opinions of the wisdom of our time, and to firmly establishing the foundations of order, equity, and justice, upon which the tranquility of the state, the salvation of the people, and the true humanity of nations depend. We have spoken more at length, as you know, about the necessity of restoring this philosophy in our Encyclical Letters given last year to all the Bishops of the world. — In those letters, we also plainly demonstrated and decreed that the best form of philosophy is that which, through the genius and study of the most holy Thomas Aquinas, enriched with the resources of

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all ancient wisdom, has been developed for the sake of immortality; and which, in all subsequent ages, has brought great praise and honor to its most devoted cultivators, and has promoted the glory of great European academies, and the advancement of all sciences. But when we recall the doctrine of Saint Thomas and the Scholastics, we are said to be drawing men back to the "immaturity" of former ages, as if we were reluctant to embrace the maturity and perfection of our own time. But what is this? We propose a model in which the splendor of virtue and wisdom can shine most brilliantly; namely, a man fully imbued with human and divine disciplines, honored for centuries with outstanding merit, celebrated by the praises of the Church and the Roman Pontiffs, and equaled in his intellect by the very angels. — Is it not entirely reasonable that those who study literature and the liberal arts are not envious, but rather serve, when the masters and techniques of the past, excelling in some field, are presented as models for imitation? Therefore, since you, on this solemn day, request certain documents from us, receive these briefly, beloved sons, not indeed new, but of great importance and most timely. Namely; just as Christian faith owes much to philosophy, so too, it should strive, as much as possible, to provide assistance. This has never been, and cannot be, harmful; for God, the parent and author of both faith and reason, has so tempered both that they are…

[*Latin ed. p. 488*]

488 Through letters, they would contemplate each other. — From this, it has come to pass that the Catholic Church has always maintained its rightful place in fostering and promoting the study of the sciences. Indeed, such perfect harmony of faith and understanding is nowhere better manifested than in the writings of Thomas Aquinas, the prince of philosophers. — Therefore, strive that the teachings of this great master may reach more and more people daily; and in the investigation of his doctrine, give yourselves this rule: embrace that opinion which spontaneously emerges from the admirable quality and clarity of his discourse, and not one which might be suggested by some preconceived notion, foreign to common sense and sound judgment. Finally, following the example of the holy Thomas Aquinas, diligently labor in the consideration of natural things; for in this field, ingenious discoveries and useful endeavors, as they are rightly admired by our contemporaries, so too will be celebrated by posterity with lasting commendation and praise. — But in cultivating these arts and sciences, avoid the example of those who distort newly discovered findings, twisting them to attack both revealed and philosophical truths. Rather, give thanks to the divine providence, which reserves this glory and this palm for the men of our age, so that they may enrich the inheritance of useful knowledge received from their predecessors through their own industry.

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A few of these things, which, for the sake of brevity, I have lightly touched upon, impress deeply upon your minds, and preserve them religiously. — You know, beloved sons, that all the Catholic bishops of the world have, almost unanimously, testified that they are in agreement with our counsels, and that, as is their custom in other matters, they will not fail in their efforts, either in will or in deed, in this matter which we are discussing. And if your industry and zeal respond to their concerns and vigilance, we confidently anticipate that, soon, the restoration of studies, which is our aim, will have a great influence on the common good of the people and on the tranquility of the Church. May the heavenly protection of the Angelic Doctor himself be a help to you in successfully completing what you have begun, and we shall, as soon as possible, see to it that he is rightly established as the patron of Catholic institutions of science and the liberal arts, as you desire. — Finally, may the Apostolic blessing add strength to your spirits, which we gladly and wholeheartedly bestow upon you, most excellent men, and upon these great lyceums, academies, sacred seminaries, and all those who, by our mandate and in our name, have come to our pontifical throne.

[*Latin ed. p. 489*]

489 FROM THE SACRED CONGREGATION FOR THE CURE OF SOULS, April 26, 1879. SUMMARY OF FACTS. In the year 1877, on June 16th, the Collegiate Chapter of the Church dedicated to Saint Paul, commonly known as "Navfrago," in the City [of Rome], presented a petition to the Sacred Congregation, stating that, from the erection of this church, the care of souls, by which the church flourished, had been continuously and legally exercised by the Archpriest, who holds the highest rank within the Chapter, until the year 1780. However, in that year, circumstances changed due to a Papal Bull of Pope Pius VI, which stipulated that, henceforth, the care of souls should be separated from the Archpriestship and exercised either by the Canons in turn, or by a vicarious priest at their discretion. Therefore, the Canons, desiring to put the Apostolic Bull into effect, decided that the care of souls should be exercised by themselves in turn. However, in reality, the care of souls, due to the opposition of some, was exercised by a removable vicarious priest until the year 1838. At that time, the Chapter considered that, with the removal of the Vicarious Curate, the pastoral service should be demanded of the Canons, who were to fulfill this office in turn. Some were reluctant, but finally, on March 26th, the Chapter, by unanimous consent, decided that the pastoral office should be filled for two years by each of the Canons, beginning with those holding the highest offices. This chapter decision

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displeased one Canon, who believed that such a resolution...

[*Latin ed. p. 490*]

490 The care of souls had been found to have violated the disposition of the pontifical bull. Therefore, with the assistance of the Sacred Congregation, he inquired that such a resolution be declared invalid and devoid of any force. The chapter, however, offered fervent prayers, imploring that the resolution be approved, or that an authentic interpretation be provided regarding the words of the bull, which must be observed in the meantime (regarding the care). The parties labored greatly to defend their own opinions; we omit their arguments, for the sake of brevity, since these points of reason do not pertain to the resolution. The discussion is purely optical. OBSERVATIONS FROM OFFICE. If the care of souls belongs to a monastery, or to a cathedral or collegiate church, the same can be exercised by a college through removable vicars, at the discretion of the college, or by the canons themselves in turn. However, while this was the practice according to ancient common law, things are different today after the Council of Trent. For, concerning benefices with the care of souls, which are united to cathedral, collegiate, and monastic churches, the bishops are urged by the Council of Trent, Session 7, chapter 7, on reforms, to take care that the care of souls be commendably exercised there through vicars, even perpetual ones, appointed in that place. Thus, with regard to these collegiate churches, it seems that the matter rests solely in the judgment of the bishops, to establish a removable vicar, or rather, a perpetual one. Indeed, the words of this Council are: "Ecclesiastical benefices with the care of souls, which are found united and annexed to cathedrals, collegiate churches, or other churches or monasteries, to benefices or colleges, or to pious institutions of any kind, shall be visited annually by the ordinaries of the place, who shall diligently take care that the care of souls be commendably exercised there through suitable vicars, even perpetual ones, appointed in that place." Furthermore, this Council more and more confirms that those pastors entrusted with the care of souls must be perpetual, as it expressly and distinctly decrees to the bishops in Chapter 13, Session 21, on reforms: "For the safer salvation of the souls entrusted to them, they shall assign to each a perpetual and particular parish, in which they may be known and from which they may lawfully receive the sacraments."

[*Latin ed. p. 491*]

CONCERNING THE CARE OF SOULS 49. This doctrine concerning the immovability of pastors entrusted with the care and salvation of souls, and not only in accordance with law, but also with reason, is affirmed by the Sacred Roman Rota in decree 53, paragraph 10 and following. The Rota, citing tradition, states that the Council of Trent requires that perpetual pastors be able to know their flock, for they are pastors... Therefore, it is

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better that they know their flock if they are perpetual and not temporary; as the Rota stated in decree 24 concerning new benefices. Furthermore, according to the canons, district 96, chapter 9, it is not fitting for pastors to be temporary... Finally, just as a marriage, whether carnal or spiritual, is not contracted for a time, so neither should the spiritual marriage be. Barbosa, in *De officio et potestate parochi*, part 1, chapter 1, numbers 43 and 44, observes that, just as one woman cannot have two or more husbands, nor can one body have two heads, because that would be monstrous, so neither can the Church have two or more pastors in one place, and in one church, there must be one priest, husband, and pastor, who has charge. This doctrine has been affirmed repeatedly by the Sacred Roman Rota, especially in decree 52, paragraphs 17 and following, page 2 of *Diversorum*, and in *Massanen. Iurisdictionis* of March 1, 1610, cited in Lugdunum; and by the Sacred Congregation of the Council in *Nullius seu Montis Casini* of January 25, 1826, in Sarnen; in *Sarnen* of July 7, 1731; in *Castrimaris* through summary proceedings of December 17, 1825, in Narnien; in *Curae animarum* of September 5, 1845, in *Neapolitana Vicarii Curati perpetui* of June 26, 1875, concerning the collegiate church of St. John the Greater, in which the care of souls was exercised by a perpetual curate, who was to be chosen every six months by the canons, by virtue of the faculty granted to them by the Most Holy Pope Innocent XII in the Bull of January 5, 1692, which begins: *In supremae Apostolicae dignitatis*. With these premises established, the following question is to be resolved:

Doubt. How should provision be made for the exercise of the care of souls in this case?

[*Latin ed. p. 492*]

492. RESOLUTION REGARDING THE CARE OF SOULS. The Sacred Congregation of the Council, on April 26, 1879, deemed it fitting to respond: Affirmative, through the delegation of the perpetual Vicar, according to the form of law, with the understanding (1). REGARDING DELEGATES OF THE SEMINARY. On June 21, 1879. Through summary petitions. A COMPENDIUM OF THE FACTS. The Reverend Bishop in Holland presented to the Sacred Congregation for the Propagation of the Faith, stating that, concerning the "proceedings" of the Council of Trent, it appears that three kinds of delegates are required, so that the administration of seminaries may be properly carried out; but, nevertheless, by custom and usage in his diocese, only four of these delegates, commonly called "Provisors," are usually appointed, whose counsel and assistance are employed both in spiritual and temporal matters, and also in rendering an account of the administration. (1) It is to be noted, as we indicated in the specific case, that the Sacred Congregation of the Council did not address matters concerning custom; for the corollaries that were resolved by the Canons regarding legal or practical interpretations would have been the same as those that are

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often deduced from Apostolic Bulls concerning the exercise of the care of souls. However, we have deduced arguments that could be presented in similar questions, as can be seen in Volume IX, pages 208 and 604. Whether it is advisable for the Apostolic See to decree that such Vicars should rather be perpetual than temporary, according to the form of law. For it must not be overlooked that after Trent, the Sacred Congregation, through the aforementioned resolutions, confirmed, as can be seen in Volume IX, the following points presented in the Appendix, which were devised by the most learned Bagnano, to suggest that it is better to have perpetual Vicars than temporary ones, adhering to the sanction of the same Council. We have presented in that Appendix the reasons for the practice, so that perpetual Vicars should be appointed, and not, indeed, temporary ones.

[*Latin ed. p. 493*]

REGARDING THE DEPUTIES OF THE SEMINARY 493: The Bishop makes use of this arrangement. He inquires whether this custom and practice can be maintained. Furthermore, since the seminaries of the Netherlands are not located within the city, but in other places, the two deputies, who, according to the decree of the Council of Trent concerning the clergy of the city, ought to be chosen from the clergy of the city, are often chosen from the rest of the clergy; one, indeed, by the Bishop, and the other by the Deans, as representatives of the entire clergy. He inquires whether this method of procedure can also be approved and safely maintained.

SYNOPTIC DISCUSSION:

THOSE THINGS WHICH ARE OPPOSED TO CUSTOM: It is certainly and undoubtedly established in law that ecclesiastical law can be abrogated by contrary custom, provided that it is reasonable, as stated in Cap. Cum Tanto II concerning Custom and the tacit or presumed consent of the legislator, c. ultim. concerning Custom; because a legitimately established custom does not derive its force from the power of the subjects, but from the authority of the legislator permitting the custom to be introduced; and therefore, without the authority of him who can make laws, it cannot have any force. Therefore, if it is unreasonable and is disapproved of by law, it is thereby rendered incapable of establishing any prescription contrary to the law. Thus, the jurists commonly state, as in cap. Cum Venerabilis 7 and cap. cit. Cum Tanto, where it is said that custom should be considered not so much a custom, as a corruption of the merit of the law. The custom brought forward by the Bishop, however, is to be considered as unreasonable, since it directly opposes the disposition of the Council of Trent, Session 23, Cap. 48, and would therefore fall under the censure of the decree of Pope Pius IV, *In Principis Apostolorum*, which is endowed with a nullifying clause, as stated in Benedict XIV, *Instit. Eccles.* 70, n. 7, which encompasses all

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the clauses of the same council. The force of this clause is so great that it not only destroys existing customs, but also prevents new ones from arising, due to the lack of presumed consent of the supreme Prince, who is never presumed to consent to things that are contrary to the clauses of the constitutions endowed with a nullifying clause. – De Luca.

[*Latin ed. p. 494*]

494 REGARDING THOSE APPOINTED TO THE SEMINARY: Canon 95, paragraphs 7 and 6; Pignatelli, *Consultations*, 434, paragraph 46, volume 1; Ferraris, *Tractatus de Rebus Ecclesiasticis*, under the word "Consuetudo," paragraph 37. Furthermore, it would seem from what has been discussed in law that the custom, about which there is doubt, could not be abolished and should not be maintained in any way. Indeed, the Council of Trent, in the passage cited below, teaches that Bishops should establish all things pertaining to the discipline and spiritual governance of the Seminary with the counsel of two canons who are senior and more distinguished, whom they themselves shall choose; and further, "the same Bishop," with the counsel of two from the Chapter, one chosen by the Bishop and the other by the Chapter itself, and also of two from the clergy of the city, of whom one's election pertains similarly to the Bishop, and the other to the clergy... If these words are explained for a short time, it becomes clear that six persons must be appointed by the Bishop for the proper governance of the Seminaries, as proposed in the first doubt; and also that the election of one of them should not be carried out solely by the Deans, as has been the custom, but by the entire clergy.

THOSE THINGS WHICH FAVOR THE CUSTOM. On the other hand, it should be noted that custom has such force that it can destroy any human law (chapter concerning custom), even if the law specifically condemns the custom as null, unjust, and unreasonable, whenever a new circumstance arises or an existing one is revealed that makes the custom just and reasonable (Reiffens, *Ius Canonicum Universale*, book 4, title 4, 49 and following; *Rota Romana*, decisions 28, part 7, paragraph 275 and following). Furthermore, the custom about which there is discussion in the first doubt seems to be reasonable, especially considering the circumstances of the places. It should be remembered that Seminaries are located not in cities, but in other places. It should also be remembered that in those places, there are not many priests available to be diverted to other duties, who are diligently engaged in the salvation of souls and the conversion of enemies of the Catholic faith; and upon serious consideration, this suggests that a custom of electing only four appointees for the Seminaries is reasonable. Above all, because this custom achieves the purpose of the Tridentine law, which consists in the proper governance of the Seminaries, whether spiri-

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tual or temporal.

[*Latin ed. p. 495*]

REGARDING THE DEPUTIES OF THE SEMINARY: 495 can be obtained, and it is also achieved through four deputies who diligently attend to the office entrusted to them. The same must be said regarding the other custom, by which it is established that a deputy is chosen from the clergy, not from the entire clergy, but from the deans, as if they were representatives of the clergy themselves. Indeed, this election appears to be made with the tacit consent of the clergy, as if by a tacit agreement. For the custom itself teaches that no one has ever opposed it, and that everything has proceeded prosperously up to now. (1) Therefore, since the judgment is the same, whether tacit or expressed, as stated in *L. ult. ff. De legat.* 2, and *L. Item quia ff. De pactis*, and since any election made through an express agreement is upheld in law, there appears to be no valid reason to condemn an election carried out through a tacit agreement, and therefore the custom in question would be deemed unreasonable in the second case. Having stated these premises, the Most Reverend Fathers considered prudently and with counsel what should be answered to the proposed questions.

RESOLUTION. The Holy Congregation, after deliberation, responded on June 21, 1879: Regarding the first point: There should be two administrators of the Seminary chosen from the chapter by the Bishop for the spiritual and disciplinary administration of the Seminary. For the temporal administration, there should be the four deputies prescribed by the Council; however, nothing prevents the same individuals from being chosen by the Chapter who have already been chosen by the Bishop for the spiritual administration. Regarding the second point: Considering the particular circumstances, the answer is affirmative.

FROM WHICH THE FOLLOWING IS GATHERED:

I. From the 28th Session, Chapter 18 of the Council of Trent: "For the spiritual and temporal administration of seminaries, six deputies are to be chosen. For the spiritual administration of the same seminaries, two priors must be chosen by the Bishops, according to the Council of Trent: Each Bishop, with the advice of two senior and more learned canons, whom they themselves shall choose, as the Holy Spirit may suggest." (1)

(1) See the appendix referred to on page 497.

[*Latin ed. p. 496*]

496 CONCERNING THE DEPUTIES OF THE SEMINARY III. For the temporary administration of the seminary, four deputies are to be chosen, two from the Chapter, and two from the clergy of the diocese: of the two to

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be chosen from the Chapter, one is chosen by the Bishop, the other by the Chapter itself; of the two to be chosen from the clergy of the diocese, one is chosen by the Bishop, the other by the clergy themselves. IV. Six such deputies ought to be permanent for the spiritual and temporal administration of the seminaries, and they cannot be removed without just cause; and the counsel of these deputies ought to be sought by the Bishops, although they are not bound to follow it (1). V. According to the more common opinion, one of the deputies to be chosen from the clergy of the diocese ought not to be chosen solely by the clergy of the diocese; for the very word "clergy," as used by the Council of Trent, seems clearly to refer to the entire clergy of the diocese. VI. In the decrees of the Sacred Congregation of the Council, it appears that the custom whereby only four, instead of six, deputies were chosen was disapproved; and another custom was approved whereby one of the deputies to be chosen from the clergy of the diocese was not chosen by the entire clergy of the diocese, but only by the deans of the clergy. (1) Regarding this matter, Giraldus writes in *Ius Pontificium*, page 2, section 109, volume 3, concerning the deputies for the spiritual administration, and this can also be said of the other four for the temporal administration: "Although the Bishop is bound to freely consider this counsel, he is not, however, compelled to follow it; nor do these two canons have any right in the administration of the seminary without the Bishop or his Vicar; as is evident from the following decree of the Sacred Congregation of the Council in Ariminensi, February 16, 1609." Furthermore, it states: "The two canons chosen by the Bishop to establish the government of the seminary have no concern, either in the reception of students, nor in their election, or in any other matter relating to the administration of the seminary, nor can they claim anything for themselves without the Bishop or his Vicar; but they ought only to require the counsel of the Bishop or his Vicar in such matters, although they are not bound to follow it."

[*Latin ed. p. 497*]

497 APPENDIX VII CONCERNING THE ELECTION OF DEPUTIES FOR SEMINARIES (1). Council of Trent, Session 23, chapter 18 concerning reform. The Council of Trent decreed the admirable institution of Seminaries, but also desired that wise laws should govern and administer them. Therefore, having described what pertains to the governance of Seminaries, Session 23, chapter 18 concerning reform, established that the Chapter and the Clergy, together with the Bishop, should care for these sacred institutions of education. And therefore, when it comes to the institution of deputies for the spiritual direction, it states: "All these things, and other things suitable and necessary for this matter, the individual Bishops shall establish with the counsel of two Canons, the most senior and esteemed, whom they themselves shall choose, as the Holy Spirit may suggest..." And concerning the temporal administration of Seminaries,

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when it wished to establish deputies, it said: "The same Bishop, with the counsel of two from the Chapter, one chosen by the Bishop and the other by the Chapter itself, and also of two from the clergy of the city, of whom one shall be chosen in a similar manner by the Bishop, and the other by the clergy themselves." Therefore, from this law, it is clear that there should be six deputies for Seminaries; two for spiritual direction, and four to form a council with the Bishop for managing the revenues of the Seminary and for applying those revenues to the Seminary. Of the more esteemed members of the Chapter, two are chosen by the Bishop; their counsel is used in spiritual matters. Of the four deputies for handling the economic affairs, two are to be taken from the Chapter and two from the clergy. One from the Chapter is chosen by the Bishop, and the other by the Chapter itself. One from the clergy is chosen by the Bishop, and the other by the clergy themselves. Therefore, as anyone can see, the Council of Trent clearly determines the institution of such deputies, their number, for what purpose they are chosen, from which group of priests they are to be taken, and by whom they must be chosen. Therefore, it seems that the Sacred Congregation, interpreter of the law of Trent, has rightly and appropriately answered the first question of the preceding matter, as related on page 492. When it rejected the custom of governing Seminaries through four deputies, while the Tridentine Council... (1) See App. 22 in Vol. I, page 691. This pertains primarily to the various kinds of deputies, and to their counsel and office concerning Seminaries and Bishops. At this time, another question is raised concerning a third type of deputies, instituted for the rendering of accounts. It seems that the Council of Trent speaks of these at the end of chapter 18, session 23, with the words: "Let the accounts of the revenues of this Seminary be received each year..." Acts, Volume XII, fol. OXLIL 32.

[*Latin ed. p. 498*]

498. He ordered that there should be six electors (1). It seems that he acted prudently and mercifully, according to the established custom, whereby one of those appointed from the clergy is chosen by the deans of the clergy, in place of the entire clergy of the diocese, as it appears to be indicated by the Council of Trent. For the particular circumstances of that place, and the extraordinary difficulties encountered by the Catholic clergy in those regions, due to the enemies of the Catholic faith in those regions, suggested to the Most Reverend Fathers that the rigor of the law should be relaxed. Therefore, taking this opportunity, we believe it is appropriate to say what seems to us to be the case regarding a certain custom prevalent in some dioceses, as we have been informed. This custom results in the fact that, while the clergy of the diocese chooses its own designated representative, the Chapter of the Cathedral presumes to interfere in that election; and, boasting of an unforgettable custom, it claims the right to

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cast votes, along with the entire clergy of the diocese, for the election of the other representative of the clergy. From the words already quoted from the Council of Trent, it is clear that of the two representatives to be chosen from the clergy of the city, one must be chosen by the Chapter, and the other by the entire clergy of the diocese. Therefore, just as the clergy would vainly presume to cast its vote while the Chapter is choosing its own representative, so too it would seem that the Chapter could in no way yield its vote while the clergy is completing the election of its own representative. For it seems to have been the intention of the Council of Trent that, in the election of representatives, all those involved in the administration of the seminaries should participate to some extent. But that administration does not concern only the Chapter, but the entire clergy of the diocese. For all beneficed clergy, whether of the city or from elsewhere, are obliged to pay a tax for the support of the seminaries. But the Chapter, according to the form of voting that has been reported, participates in the election of representatives in two ways; and it alters and disrupts the proportion intended by the Council of Trent. And therefore, such a custom seems to be contrary to the sanction of the Council of Trent. It cannot be said that the Chapter is part of the entire clergy of the diocese: for, whatever may be the case, the Council of Trent used distinct words about two distinct entities, and it assigned to each a distinct right and duty to choose. It has often been disputed among Doctors, and the controversy still continues, whether an ancient and established custom can set aside the law of the Council of Trent; or whether the decrees of the Council of Trent can be annulled by contrary customs. It is clear from the Pontifical Constitutions, even those containing decrees that annul, that they can be reduced to nothing by custom.

(1) In Vol. I, page 657, there is another question in which the Sacred Congregation has condemned the custom of administering the seminary by a single congregation, instead of by properly elected representatives.

[*Latin ed. p. 499*]

xvii. Regarding the argument: This is because, after so long a period of time, the Pontiff appears to have consented to the abrogation of the law. And Reiffenstuel, in *Decretum I*, volume 4, section *De consuetudine*, paragraph 8, number 189, speaking of the value of this custom, says: ”For an immemorial custom, a just title is presumed”; for ”possession by immemorial time” is like a title, indeed, ”no better title can be alleged throughout the world,” as Fagnanus says in chapter *Cum Apostolica*, number 6, concerning those things done by the Prelate... Furthermore, ”an ancient custom, or one exceeding human memory, has the force of a privilege granted by the Prince.” But if every law of human right is overcome by custom, why not the very Tridentine law, at least by an immemorial one? Benedict XIV, who held the contrary opinion, attempts

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to give a reason in *Institutiones*, 60, number 7: "It was sufficiently provided by Pope Pius IV in that Constitution, which begins *Benedicttis Deus*...," that "it abrogates all things that appear to be contrary to the Council of Trent; therefore, it embraces all the chapters of that Council, and renders null and void any customs that violate some of the laws prescribed in those same chapters." When Benedict XIV considered the opinion of Pitonius, who was presented to the Roman Rota with the question of whether an immemorial custom could set aside the Tridentine law, which prescribes the concurrence in the provision of benefices of the curator of the patron's right and the ecclesiastical right, he stated as follows: In *De controversiis Patronatus*, volume 1, appendix 5: "Indeed, the fallacy of the argument is demonstrated in the very supposition of immemoriality, which, in this article, certainly cannot be given or alleged. And distinguishing the times, either we must understand 'immemorial' to mean from before, namely, before the disposition of the Council came into effect, and this is impossible; because at that time, the new form of providing through concurrence had not yet been introduced into the Catholic world; consequently, I do not see how a custom or prescription exclusively for the form of concurrence could have arisen before that form was born... For, never can 'immemorial' be alleged with regard to things that are newly introduced... Or, do we understand 'immemorial' to mean from after, namely, after the decree of the Council itself? And this, too, is equally impossible; because, once the beginning is given, 'immemorial' is no longer given, but only 'centennial.' But this, nevertheless, can be alleged; because the decree by which the Council of Trent is protected, and the *Sacraments* Constitution of Pope Pius IV, so invalidate every contrary act, that they do not permit any custom, or prescription, even centennial, to begin at any time; this is commonly affirmed by De Luca and Pignatelli... The Rota..."

[*Latin ed. p. 500*]

500 APPENDIX VII. The nullity of customs contrary to the decrees of the Council of Trent. Cardinal De Luca, in *De Iurisdictione*, Disputation 95, paragraphs 7 and 8, states: "The 'irritating' and 'suspensive' clause, which are contained in the Constitution of Pius IV, issued concerning the confirmation and publication of the Council, having been removed, whatever is contrary to it cannot be established as a prescription or custom, which is thereby impeded from arising." However, there are those who maintain the opposite opinion. They do not recognize that Pius IV, through his Constitution *Benedictus Deus*, which encompasses all the chapters of that same Synod, declared the customs that violate certain laws contained in those chapters to be invalid and void. Nevertheless, they claim that a well-established custom has such force that it cannot be subject to a law of human right, even if it is accompanied by an 'irritating' decree, against which

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it cannot be prescribed. "For the 'irritating' decree only abrogates the pre-existing or future custom, provided that the same circumstances remain." The Popes, in commanding the inviolable observance of these decrees, have not, by the force of custom, nullified those customs which possess the aforementioned qualities. "Indeed, he who denies that a custom can have validity even against the decrees of the Council of Trent, only does so if, for example, he maintains that all the provisions of benefices in parishes, made everywhere without concurrence, or without its completion according to the form prescribed by the Council of Trent, Session 24, chapter 18, concerning the *subreptitias*, and similar provisions or institutions, lack jurisdiction; which cannot be seriously affirmed." With these points established, we must return to the question proposed; namely, whether certain chapters of Cathedrals seem to allow something that, when the clergy chooses its own delegate for the Seminary, is contrary to Canon Law, Title 4, canon 12. Such a custom clearly appears to be contrary to the sanction of the Council of Trent. And therefore, even if someone were to follow the opinion that a custom can be prescribed against the disciplinary decrees of the Council of Trent, one must proceed with caution regarding the one we are discussing. "The Council of Trent has the same authority as other General Councils; therefore, if a custom can introduce a prejudice into the canons of General Councils, it will also be able to achieve the same effect against the disciplinary canons of Trent." On the other hand, it is well known that a custom that proceeds against ecclesiastical human law, in order to have the force of law, must, besides other requirements, be reasonable. For a custom to be reasonable, it must not be reprobated by the same law as a corruption, or as something that undermines the very foundations of the Church. – De Angelis, *Praelectiones*.

[*Latin ed. p. 501*]

IX. VII. Disciplina ecclesiastica, vel alio modo, nocet utilitati communi. Nunc, si quisquam perseveraverit in consuetudine tali, in aliquo modo disciplina ecclesiastica labefactari videtur. Quia, contrarium Concilio Tridentino, honoris et iura nonnullorum electorum violantur, quorum interesse est ut oeconomia Seminariorum recte administratur. Immo, si finis legis Tridentinae intimius inspiciatur, non tantum honor, sed etiam onus huiusmodi ius electis indictum ad rectam administrationem Seminarii ordinatum esse debet; et ita, vel a Clero vel ab ipso Capitulo, ut nec si vellet sese ab illo alteruter posset exsolvere, nisi ad electionem, quoties casus contigerit, deveniendo. Et ideo, si Tridentina sanctio ex una parte electores non honorare tantum, sed etiam onerare dicenda est, ex altera non minorem legem imponere videtur electoribus, ut statutus electionis ordo servetur, ne secus aliquid occurrere possit inconveniens in aliqua Dioecesi. Nam neque ob hanc consuetudinem impossibile est ut eveniat casus, quo etiam in electione deputati a Clero peragenda, numerus

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Canonicorum ob electorum socordiam aut difficultatem accedendi ad locum electionis sit maior, et suffragia istorum praevaleant. Ex quo fieret ut Capitulum, contra Tridentinae dispositionem, duos deputatos, et Clerus totius Dioecesis nullum eligeret; nullumque haberet representantem in Seminariorum administratione, quorum favore proprium solvit obolum. Ex his quae hucusque adduximus, patet contrarias esse doctorum sententias quoad quaestionem, an decreta Tridentini disciplinaria, consuetudine contraria vincantur. Ideoque prudenter egisse videtur Ordinarius ille, qui in questione relata pag. 492, duas, de quibus dubitabat, Apostolicae Sedis iudicio proposuit consuetudines, ut tuto cognosceret an essent irrationabiles. Probe enim eidem Ordinario innotuit R. Pontifici, et pro E. S. Concilii Congregationis esse de rationabilitate consuetudinum, adversus Tridentinum inolescentium, iudicare. Concludendum ergo esse nobis videtur, relate ad huiusmodi consuetudinem, quod prudenter agerent etiam Capitula, de quibus agimus, quatenus vel consuetudinem dereliquerint, de qua dubitant; vel si eandem iudicio s. Congregationis deferant, ut agnoscant an tuto et rationabiliter eadem manuteneri possit. Libet aliquid adiicere de altera questione quoad huiusmodi deputatorum electionem, antequam appendici huic finem imponamus. Quamvis enim apud omnes certum sit, quod deputatus Seminarii, eligendus a Clero, eligi debeat de Clero civitatis, non aeque firma apud omnes opinio est, quoad electores deputati eiusdem. Nam nonnulli censent, ut alias innuimus,

[*Latin ed. p. 502*]

APPENDIX VII. 502 To the entire clergy of the diocese, the duty and right of electing representatives falls; thus, they have a proper role in this selection. "Furthermore, two opinions exist among the clergy regarding this matter. One holds that the election pertains only to the clergy of the city, while another believes it pertains to the entire clergy of the diocese. A third opinion suggests that it pertains to a portion of the clergy." Those who defend the former opinion reason as follows: The Sacred Council only prescribed that this election be carried out by the clergy. This statement, undoubtedly, encompasses the entire clergy of the diocese; and no sound reason exists to restrict it to only a portion of that clergy, namely, the clergy of the city. As we mentioned above, the administration of the seminaries concerns the entire clergy of the diocese, since the entire clergy must contribute a tax for its support (1). Others, on the contrary, believe that this election pertains only to the clergy of the city, or at least that it is customary in certain places. If, indeed, the custom prevails that the representative is elected only by the clergy of the city, then this custom should not be rejected, since it is not definitively established whether this is contrary to, or beyond, or in accordance with the Tridentine decree. The Sacred Council, these argue, when speaking of the election of representatives from the clergy, uses certain terms from which it can be inferred that both the elected

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representative and the electors must be from the clergy of the city, since the text seems to refer to the same clergy in the first and second cases. If, in the second case, the word "clergy" is not added, it is permissible to believe that the same clergy is understood both times. This opinion is also supported by the serious difficulty of gathering the entire clergy of the diocese for this election; and the probable harm that would result from the absence of pastors. However, we must candidly admit that we have not found a definitive resolution regarding this twofold opinion from the Sacred Congregation; and it is up to that Congregation to clarify how the Tridentine law should be understood, since it is not entirely clear. We know that the same Sacred Congregation, in practice, has not disapproved of the custom in certain dioceses, whereby only the clergy of the city elect the representative to be appointed from the clergy. (1) From the documents of the Seminary of Gubbio and the tax of March 1, 1805 - S. G. EE. and Reg. - it is gathered that the tax to be paid to the seminaries by the clergy and pious institutions of the city and diocese, cannot be less than three, nor more than five, for every one hundred units of annual revenue of any benefice. Only expenses necessary to obtain these revenues may be deducted from these revenues; S. C. Concilii in una Alyxipponen. of the year 1673. See Appendix II, Volume V, page 93; in which a more detailed discussion is given regarding the taxes to be paid to the seminaries and other means for establishing seminaries.

[*Latin ed. p. 503*]

503. PRECEDENTS. April 26, 1879. SUMMARY OF THE CASE. In the city of N., there has existed, from the most remote times, a Collegiate Church dedicated to Saint Victor, which is served by a Prefect and five Canons, who are also parish priests. Besides the performance of the sacred functions during the most solemn festivals of the year, it is the duty of the Prefect, along with the Canons, and on certain other days, which are called "full" or "half" days of the Prefect, to participate in the choir; and during that time, he has the right to occupy the first stall in the choir. Since the year 1769, a dispute arose between the Canon Prefect and the Canons of the aforementioned Collegiate Church, even concerning the stall due to him in the choir, both in the actual possession thereof, and in all other functions whatsoever, and the question was brought before the Bishop, who, after hearing both sides, considered it right to respond: that the stall in the middle should be assigned to the Prefect, both in taking possession of it, and in all subsequent functions. This question was raised at various times, until the year 1855, when Canon Julius was elevated to the dignity of Prefect, and by an act of the chapter on March 15 of that same year, in the presence of and with the acceptance of the Prefect G., it was established that the Prefect could not occupy the first stall in the choir except on those days in which it was his duty to perform functions, and on

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all other days, he must yield it to the one who was performing the sacred functions, whether he was the Prefect or the weekly Canon. After the death of Julius G. in 1877, the dignity of Prefect was conferred upon Canon and Parish Priest Antonio P. However, this man, being unwilling to accept the distinction of remaining in the first stall only during certain important functions, on May 11, 1877, appealed to the Ordinary, explaining that he should be permitted to occupy the first stall with full right.

[*Latin ed. p. 504*]

§ 04. PRECEDENTS in the choir, according to the memorable custom. This was established by a decree of the Bishop on May 18, 1877, of the following tenor: "We declare that the Canon Prebendary of the Collegiate Church of St. Anthony is entitled to a specific stall in the choir, to the exclusion of all others, and that he must maintain his right to occupy that stall, both on days designated as "Prebendary Days," and on other days when the Chapter performs sacred functions." Immediately, three of the four Canons of the aforementioned Collegiate Church protested against this decree, requesting its revocation; but their pleas, having been rejected by the Curia, they supplicated the Sacred Congregation [presumably the Sacred Congregation of Clergy] on February 6, 1878, earnestly requesting that an end be put to the controversy that had arisen.

A Synopsis of the Dispute. DEFENSE OF THE CHAPTER. The defender of the Chapter divides his argument into three parts; in the first, he argues that the petition does not sustain the Bishop's decree; in the second, he argues that neither does the possessory action sustain it; and finally, in the third, he asserts that it is not sustained by law itself.

First, addressing the first part of his argument, he anticipates the petitioner's claim, citing Menoch. de recuper. posses, praelud. n. 8, which is relevant when the question is of the property of a thing, and which, he argues, is now being raised for the first time in this controversy. For the Prebendary, by letters of May 11, 1877, challenged the provision made by the Bishop, claiming full right to the first stall in the choir. However, the Bishop, after only seven days, without proper citation of the opposing party, without a contestation of the matter, and without a defense or conclusion in the case, issued a decree beyond what was requested, joining the petition with the possessory action, stating: "The Canon Prebendary is entitled to a specific stall in the choir, to the exclusion of all others, and must maintain his right to occupy that stall." With these premises established, the advocate argues that, according to common law, dignities within the Chapter are not merely for the performance of certain more solemn functions on major feast days, but also that they are not subject to the laws of residence and the turn of the Conventuals, as De Luca states, *Discourses*, 4, n. 5, concerning Canons and Dignities, *Rot.* (presumably referring to a specific collection

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of writings).

[*Latin ed. p. 505*]

PRECEDENTS 508. DECREES 708, part 1, record. Even these, it is said, do not receive daily distributions, nor have a voice in the chapter, nor a stall in the choir; and they quickly recite [the Divine Office]. The author, in the cited work, Discourse 1, no. 6, states: "de iure" and, when a particular custom ceases, dignities are not said "to be of the Chapter..." Furthermore, they are exempt from the turn of the Conventual Masses and other daily priestly duties, which are incumbent only on the Canons, while with dignities, some greater solemnities and other functions are associated. The Council of Trent recognized two kinds of dignities; one, which has something in common with the Chapter, as in chapter 3 of session 21 on Reform, and the other, which has nothing in common with it, as in session 22 of the same, chapter on Reform; thus notes Fagnan in Cap. "Quia nonnulli De Clerk, non resident." The defender argues that the dignity in question belongs to the latter category, and he strives to demonstrate this with several arguments: 1° because it has its own and separate revenues; 2° because it has nothing in common with the Chapter; 3° because it does not obligate to residence, so that it can also be conferred on outsiders; 4° because it does not have an active voice in the Chapter; 5° because it lacks the care of souls, which is attached to other canonical positions, and with which this dignity can be combined; 6° because it does not receive daily distributions, unless the holder is also a Canon; 7° finally, because it must perform only certain functions on days called "full" or "semi-full" of the Prepositura, on which the Preposit only is obliged to enter the choir, and in which only he occupies the first stall in the choir. Regarding the first point, the advocate recalls that the Prepositura in question has always been a simple benefice. To prove the second point, the advocate presents two examples of collated possessions, in which the Prepositura was conferred privately, while other benefices of the same chapter were transferred capitularly. From these and other testimonies, he concludes that the possession of the Prepositura has never been conferred capitularly, and that the Preposit has always retained the sixth stall in the choir, without anyone objecting. Therefore, the Prepositura has nothing in common with the Chapter.

[*Latin ed. p. 506*]

506. PRECEDENTS. The Defender attempts to demonstrate, in the third place, that a prelate is not subject to the law of residence. He argues this both from the fact that a prelate was sometimes appointed to a certain priest who resided far from the see, and from the fact that the city of N. petitioned only on the days of the Preceptorship; and also from the fact that the benefice of Preceptorship is often united with a canonical benefice in the same person, namely, a Canon of the Parish, which could not be the

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case if the Preceptorship were subject to the law of residence, and were not a simple benefice; for it is well known that the possession of residential benefices entails the incompatibility of certain other benefices. Furthermore, he points out, as indicated in the fourth place, that in the chapter records, the voice is lacking, as evidenced by the act of possession of the year 1763, where it is explicitly stated that the possession of the Preceptorship was granted without a stall in the choir, without a voice in the chapter... with no one dissenting; and by the Chapter act of March 15, 1855, in which it was decreed that the Prelate was without the care of souls and without a voice in the chapter. Furthermore, he states, in the fifth place, that the Preceptorship does not have the care of souls, and indeed, that it can be united with a canonry with the care of souls, as evidenced by the report on the state of the Church of the year 1753; in which no mention is made of the Prelate being required to have the care of souls, but rather, the care of souls is attached only to the titles of the canons; and by various protests and by the chapter statutes. In chapter 49 of the same statutes, six names are mentioned, representing the number of canons of the parish, and no mention is made of the Prelate, and therefore, he was never at any time compelled to attend the synod required by the Council of Trent; nor is he therefore bound to bless marriages or to perform any of the duties of a parish priest. The Preceptorship, however, can be united with a canonry; but by itself, it is not a residential benefice, nor does the Prelate enjoy the daily distributions; for he only comes to the choir on the days of the full or half Preceptorship, and on those days he occupies the first stall. This first stall is ceded to the hebdomadarius on other days, who also exercises the care of souls. Turning to the second point of his argument, in which he maintains that a decree of this kind cannot be sustained in the possessory process, he attempts to prove this by: 1. The fact that, when the Prelate is only...

[*Latin ed. p. 507*]

PRELIMINARY CONSIDERATIONS: It is evident that the Praepositus [head] has not obtained the right to the office through legitimate means, and has not even acquired possession of it; therefore, he should be rejected from the very threshold of the court, because he has never possessed, nor does he currently possess, that which he presumptuously claims to be entitled to preserve.

2. Since possession is established through a legal act, and it is evident that the Praepositus P., as well as his predecessor, have never been in legal possession of this office, contrary to the Hebdomadarium [a collection of ecclesiastical laws], because both were appointed to the office under the law that the stall [a seat or position] must yield to those performing sacred functions; and this law has been steadfastly observed, with three witnesses – priests from outside the Chapter – without interruption, until the present

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day. Therefore, possession favors the Hebdomadarius [the one holding the office according to the Hebdomadarium] and that based on a just title, because it is supported by the resolution of the Chapter of May 15, 1855, and also in good faith, because the Hebdomadarius peacefully possessed the office until the year 1769, and from the year 1855 until the present.

Finally, in the third section of his argument, the defender of the Chapter contends that the Decree of the Bishop is null by law. He proves this by stating that the Bishop issued the decree after a period of seven days, without citing the opposing party, which citation is necessary according to Reiffenst. lib. 2 Decret., tit. 3 de libelli obicit, n. 67, Canon. Caveant, Canon. Omnia 3 q. 9, and Canon. Ecclesia 10. Furthermore, there was no formal contestation of the proceedings, and this defect, in an ordinary court, renders the judgment null, as stated by Reiffenst. lib. 2 cit., tit. 5 de litis contest., n. 3. For, in the absence of a contestation of the proceedings, the judgment pronounced by a judge ignorant of the merits of the case is, by law, null (Reiffenst. lib. 2 tit. 27 §. 2 n. 42 and 43). Finally, there was no conclusion reached in the case, and therefore the judgment was issued beyond what was requested, and all of these factors entail nullity.

First, it is evident by itself; secondly, it is deduced from the fact that the Praepositus P. only appeals in cases involving a request for judgment; whereas, in contrast, the Decree of the Bishop pertains to both a request and a claim of possession.

DEFENSE OF THE PRAEPOSITUS: The advocate defending the rights of the Praepositus, and therefore arguing that the Decree of the Episcopal Curia should be confirmed, divides his defense into three distinct sections; namely, he argues that 1. In the distinguished Collegiate Church of St. Victor, there exists a head, or Praepositus, who is...

[*Latin ed. p. 508*]

508. PRECEDENCE: The dignity of the Prelate is adorned with precedence – 2. This dignity is entitled to precedence in all functions, both within and outside the Church – 3. The act of the Chapter of May 15, 1855, cannot be maintained in any way. And regarding the first point, it is maintained throughout the Catholic world that no Chapter can be found without a President, whatever name he may be called by, as De Luca, in *de praeemin. disc.*, 20, demonstrates; just as no body exists whose members are not joined to a Head. This is illustrated by the example of the divine institution, in which one was chosen from twelve to be the Head, so that the opportunity for schism might be removed. To this norm, it is subject that the Prelate has already governed the Canons, when they professed communion of life, and that he still remains as the head and Rector of collegiate churches, which, as the etymology of "Praepositus" from "praeficiendo" demonstrates, is confirmed by the authority of Berardi, *Comment. in Ius Eccles. Univers.*, vol. 2, chap. 5, diss. 2; Tomassini, *Vet. et nov. Eccl. dis-

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cipl.*, Book 3, chap. 70, n. 1; and especially Pitonii, who in *discept. Eccles.*, 8, nn. 15 and 16, demonstrates the status of a collegiate church from the fact that it still exists today with a Prelate who regularly indicates that he has been the head of the college. The same is held by Scarfanti, *Lucub. Can.*, book 1, title 5, n. 30, and Lotherius, *de re benef.*, book 1, question 14, n. 109. In fact, it recalls the ancient and undeniable existence of the Prelate, who, from the documents presented, appears first in all acts, performs the more solemn festivities, and exercises acts of jurisdiction, administers the Holy Eucharist to the Canons, Parishes, and Clergy on the Friday of Holy Week, blesses crosses, and receives the oath from a new Canon. Indeed, the Defender continues, since from the year 1843 it was written in the Chapter Statutes: "We, the undersigned Prelate, and Capitular Canons of the distinguished Collegiate Church of N.," there is no longer any doubt about the dignity of the Prelate, without which the privileges granted to the collegiate church are not conceded, as Pirro Corrado, book 2, chap. 1, n. 17, states: "the quality of distinction in such churches is not placed absolutely and by itself, but also with respect to dignities, since dignities in churches were instituted to preserve and increase discipline."

[*Latin ed. p. 509*]

PRECEDENTS 509. To further demonstrate the prerogative of this Office, it is argued that pontifical appointments are sufficient. Indeed, according to Rule IV of the Apostolic Chancery, the higher dignities are reserved for the Pope after pontifical appointments, and the primary dignities properly so-called in collegiate churches; as taught by the Rota, Decree 297, paragraph 5, section 47, record. This reservation, having been made since the year 1726, not only determines the nature of the Office, namely, that of the distinguished collegiate church of St. Victor, which holds the principal dignity therein; but it is also, in itself, sufficient to induce the concession, based on an observance of more than a century, through which "all things are prescribed, all things are changed, all things are acquired" (De Luca, De Canon. Disc. 2, n. 6; Rota coram Motines, Decis. 962, n. 7).

Regarding the second point, it is observed that when the Supreme Pontiff confers a dignity upon the Prelate with all its rights and appurtenances, it is surprising that lesser dignities are denied to him, while greater ones are granted, according to Caer. Episcop. lib. 2, cap. 34, and the declaration of the Sacred Rit. Congregation in Gerunden, 4702. For, as stated in Rule 53 of the Civil Law, "to him to whom more is permitted, it should not be forbidden to do what is less" (in 6). Furthermore, it is noted that the seat placed in the middle, after the altar, is considered the most suitable place for someone of higher rank, both by secular and ecclesiastical authorities, as evidenced by the Council of Nicaea and Daniel, chapter 43: "Come and sit in the midst of us, and show us, for God has given you the honor of old age." Therefore, if, according to the disposition of the law, the Prelate named

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first by the Supreme Pontiff precedes those listed in the same document, Chapter Mandato, in 6, and if a more privileged person is preferred over a less privileged one, Chapter Accusat, de Primi, in 6, it follows that he who holds the primary dignity, whatever name it may be called, always precedes the other dignities of the same church; as stated by Scarfi, loc. cit., n. 43, and De Luca, de Praeem. disc. 20, n. 40, who affirms that in collegiate churches, the preeminence of the primary dignity always remains firm.

Furthermore, it is taught by Scarfi, loc. cit., n. 45, that this preeminence is not limited to the functions performed within the church. From the aforementioned Roman Rota, Decree 333, n. 5, it is deduced that, to prove the prerogative of this Prelate, it is sufficient if four Apostolic provisions are present, which have been fully carried out.

[*Latin ed. p. 510*]

510. PRECEDENCE. This is more strongly demonstrated by the case of the Coadjutor of the Dignity (1), who enjoys every kind of precedence before all Canons, even the most ancient. Furthermore, the seat assigned to the Dignity, the Defender continues, cannot be occupied by other Dignities, and certainly not by Canons, as decreed by the Congregation of Rites in Gerunden, year 4702. And previously, in Placentia, on May 15, 4632, it was decreed: "The seats of absent Dignities should not be occupied by other Dignities, but each Dignity must remain in its own stall." And in Asculana, on August 20, 4664, it was decided: "It is not permissible for Canons to occupy the seat of the Archdeacon celebrating." See Concini Scarfant., op. cit., Lib. 3, Add. 7, n. 17. Barbosa de Canon. et Dignitat., cap. 18, n. 41; Pignatelli, Constitution. Can., 83, n. 5; Rota in Romana Praecedentiae, June 3, 1712, and in Novarien. Praeeminentiar., June 26, 1726. The fact that the Preposit occupied the first stall in the choir is evident from the fact that, since the year 1595, a Preposit has been present in the Collegiate church as the first in the choir by reason of his Prepositship, although he is also a Canon, fourth in order (2). In the third chapter, the action taken by the Chapter on May 15, 1855, is argued to be unsustainable in every way. Generally speaking, it is said that: 1. This action cannot be invoked against the established observance, which is in conformity with common law; 2. It was not made in good faith, given the imminent law of suppression in the Alpine regions. Then, it is finally observed that agreements and conventions are to be upheld when they improve the condition of the Church, but not when they foster abuses and undermine the discipline of the Church.

(1) An example of this is found in the Collegiate church of St. Eustachius in Rome, "in which the Coadjutor of the Archpriest precedes even the Parish Priest, and all the Dignities of the same Chapter, and before all the Canons." (2) The Defender of the Preposit made it clear through the case of the Dean of the Collegiate churches in Rome, that this is in accordance with the law, and that the Congregation, in its decree of July

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1639, n. 1021, and in the decree of April, concerning the integration of the beneficials, specifically stated that Dignities, when present, must occupy the higher stalls, and that the lower stalls are not to be taken away from those who hold the higher offices. Gonzalez, in response to question 8 of the Regulations of the Cancel., replied: "Affirmatively."

[*Latin ed. p. 511*]

PRECEDENTS 511. Moreover, the Advocate adds that, in the case of a Capitular act, it can be declared invalid either on account of the object of the act, or due to a lack of authority in the contracting parties, or because of the prejudice it inflicts upon successors. Regarding the object, he states that a transaction concerning temporal goods, even among ecclesiastical persons, is considered a species of prohibited alienation and falls under the provisions of Extravagantes, *Ambitiosos*; *De Iluca De aliénât.*, Disp. 17, no. S; and especially because, by decree of Pope Urban VIII on July 5, 1641, it was declared that all transactions, whatever they may be, with the Apostolic See or with ecclesiastical persons, which are in any way prejudicial, are null and void and can never cause any prejudice to them, at any time. Furthermore, a transaction cannot be made concerning a clear right, as Ulpian states, *leg. 1 ff. de transad.*, when something is lacking. Regarding the lack of authority in the persons involved, he points out that neither the authority of the Bishop nor the Apostolic approval is found, which is not presumed in a state of turmoil. Therefore, he concludes, thirdly, that no prejudice could be inflicted upon successors in the office, who, under the name of Praepositura, claim precedence by a new Bull, "because the Church never ceases to possess the right in its own mind, nor does it admit of a possession based on the act and confession of the Rector." *Leg. Iubemus Cod. de sacros. Eccles. Rota in Piacentina Praecedentiae 27 Iun. 16S2* no. 5, before Merlin. Nor would the acquiescence or renunciation of the previous Praepositus to the opposing party be of any help. For although the Praepositus may yield in order to avoid dangers, it always remains firm that acquiescence and renunciation cannot extend to prejudice against the dignity and the rightful successors, without special confirmation from the Holy See. *5. Cong. in Platien. Iurium et Praeeminent. 15 Febr. 1879 §. Quin aliquid.* Finally, the Defender observes that no protection should be sought in the ultimate state of turmoil, which gave rise to the controversy. Indeed, in these cases, the possessory right is absorbed by the petitioner. Thus, the Rota in Novarien. Pont. Parodi, dec. 461, §. 14, before Motines, states: "because, from the premises, it clearly and consistently appears to the contrary of the previous state..." the ultimate state is not considered.

[*Latin ed. p. 512*]

512 PRECEDENTS: Regarding the status of a benefice ad vitam, see text in chapter concerning Benefices, under "Concerning Prebends," section

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6. More strongly, if it is taught concerning the lasting observance [of the benefice]: Lotter, *De re beneficierum*, Book 1, question 34, etc. Furthermore, this is more forceful because the Holy Congregation, disregarding the final status, often reforms doubts by recalling the question to the judgment of the petitioner, as can be seen among the thousands of resolutions in the Holy Severini Collection of April 9, 1859, and in Pannen, a resolution in the Holy Congregation of Rites dated March 27, 1876, presented by the Most Reverend Oreglia. Having considered both of these, it was necessary to determine whether the decree of the Bishop of May 18, 1877, should be confirmed or rejected in this case. RESOLUTION. The Sacred Congregation, having considered and discussed the matter, on April 26, 1879, decided to respond: Affirmatively to the first part; negatively to the second, and furthermore. FROM WHICH, THE FOLLOWING MAY BE GATHERED: I. From the example of divine institution, in which one was chosen from the twelve Apostles, with this intention, that the opportunity for schism might be removed, it can be argued that no Chapter is required without a president, just as no body exists whose members are not joined to the head. II. In the matter, the existence of a Prebend is clearly and undoubtedly apparent; for it is known that the Prebendary was the first to perform the more solemn festivities, and to exercise acts of jurisdiction, administering the Holy Eucharist to the Canons, Parishes, and Clergy on the Friday of Holy Week, affixing crosses with a blessing, and receiving the oath from a newly appointed canon. III. It is sufficient to demonstrate the prerogative of a certain dignity by the pontifical grants of that same dignity; and because of...

[*Latin ed. p. 513*]

PRECEDENTS 513, Rule 4: Dignities reserved to the Papal See include the higher offices, those following the pontifical offices, and the primary dignities properly so-called in collegiate churches.

IV. The reservation in the matter, favorably enacted by the Apostolic See since the year 1726, reveals the distinguished quality of the collegiate prebend, and leads to a centennial observance, by means of which everything is prescribed, everything is changed, everything is acquired.

V. Therefore, those named by the Pontiff ought rightly to precede all other canons and dignities of the same chapter in all actions, whether they are performed outside the church while walking, or inside the church while seated; and even if such dignities, named by the Pontiff, are outside the chapter, nevertheless they are of this body, and are more worthy members thereof (1).

VI. Therefore, the seats of absent dignities ought neither to be occupied by other dignities, nor by canons, but each one ought to remain in his own stall according to the assigned order.

VII. Agreements and conventions entered into among the chapter mem-

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bers, by which a person of a lower order is granted precedence over a person of a higher order, cannot be maintained; for the order, which is most beautifully designated in ecclesiastical degrees, would be destroyed, and ecclesiastical discipline would be weakened.

VIII. With regard to this matter, the chapter act of May 15, 1855, suffers from various nullities: first, because the transaction concerns incorporeal rights, which are prohibited from alienation; second, because the contracting parties lacked authority in a matter reserved to the Apostolic See; third, because a prejudice is inflicted upon successors.

IX. Therefore, the Sacred Congregation has consistently upheld the decree of the Bishop of May 18, 1877, in which it was decided that the Prebendary, Antonio P., should have a fixed stall for all days on which the chapter would perform sacred functions, and that this stall should be entirely distinct from the stalls of the other canons.

can. Lib. 1 » functions; for it would be absurd, that « a c if anyone in the choir has precedence, » he would not have that precedence outside, as it is said, « uti pon- » n praecedentiam, debet pariformiter si- » » mili gaudere praerogativa in reliquis * nentiarum §. Ex ordine cor. Priolo ●». Acta, Tom. XII, fase. C XLII. The Rota in Eugubina in Praeemi- 33.

[*Latin ed. p. 514*]

514 MISSES FOR THE PEOPLE. June 21, 1879. SUMMARY OF FACTS. The Archbishop of the Gallican Nation obtained, in the year 1852, an indulgence from the Holy Roman Church, by virtue of which all the parish priests of his Diocese were dispensed from the obligation of offering a Mass for the people on the feasts of the Saints, which had been suppressed by the Concordat of the year 1801; and this, as it is written in the indulgence for a special grace, with the condition, however, of applying it within the year, at will, for the same purpose, three Masses. This was renewed and extended by a decree issued by the aforementioned Congregation on March 11, 1858, to include all and each feast day, whether of the Lord's Day, or of the Blessed Virgin Mary, or of the Saints, always maintaining the condition of celebrating three Masses at will each year. However, scarcely a month had elapsed since this second decree, when the Encyclical Letter *Amantissimi Redemptoris* was published by Pope Pius IX, of blessed memory, on May 1, 1858, in which the lamented Pontiff, deploring the custom that had prevailed for a long time in some places, namely, of ceasing to offer the sacrifice of the Mass for the people on the days formerly designated as feasts, declared, established, and decreed that the parish priests and others who actually care for souls, ought to celebrate and offer the sacred sacrifice of the Mass for the people, not only on all Sundays, and on other days which are still observed by precept, but also on those which, by the indulgence of this Apostolic See, have been removed from the number of days of precept.

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And since there were pastors of souls who had obtained a particular indulgence for reduction from this Apostolic See, it was stipulated that they should continue to enjoy the benefit of this indulgence, always according to the conditions...

[*Latin ed. p. 515*]

MASSES FOR THE PEOPLE 515. Explicit permissions were granted, and until the pastors should exercise their office in the parishes which they govern and administer in the present time. Then the aforementioned Bishop, through circular letters, recalled all the pastors to such observance, notwithstanding the permissions obtained. Since recently ecclesiastical gatherings concerning the Mass for the people on feast days had been suppressed by the Concordat, the Prelate knew that not all pastors followed the same opinion regarding this obligation, due to the permissions of the Holy Roman Church of the years 1852 and 1858. Therefore, the Bishop appealed to the Holy See, in order to avert any doubt on this matter. Synopsis of the Discussion. THOSE THINGS WHICH INDICATE THAT THE DECREES OF THE HOLY ROMAN CHURCH HAD NOT BEEN ABROGATED. It appeared that the aforementioned permissions of the Holy Roman Church had not been abrogated by the disposition of the Encyclical *Amantissimi*; for it is well known in law that a Prince, by a newly enacted law, does not presume to intend to inflict prejudice (L. 1 §). If anyone, from the stream and L. 2, If anyone from the Prince ff., should not, in a public place, presume that the Prince wishes to take away the right of another (Afflictio, dec. 334, num. 3; Alciat, reg. 3 praesumpt. II num. 3). But through the permissions granted to the pastors of the Diocese of S. by the Congregation of Rites, the question had already been raised of whether the right to not applying the Mass for the people on feast days had been removed. Therefore, it must be said that the Supreme Pontiff, through the disposition of the Encyclical *Amantissimi*, did not intend to revoke the permissions granted to the pastors of that Diocese. Even more so, because, as everyone knows, new constitutions impose the law only on future matters, and not on past ones (L. Leges Cod. de legib. Felin. in cap. ult. De Constit., Gratian. Discept, forens. 985 num. 17). Although there may be some case in which the past is expected to be perfected in the future (Bart., in L. Omnes populi num. 44 vers., or actus perfectus, Cr ot. num. 131 ff. de iust. et iure, Gratian, loc. cit. num. 18). Since the beginning is taken from the past and from that time the origin is treated, although perfection is expected in the future, nevertheless it is said to be a case.

[*Latin ed. p. 516*]

516 MISSES FOR THE PEOPLE, previously permitted and therefore not included in the new Constitution. Hence, the rules of interpretation teach that, by a special decree previously granted, the later general law is limited

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and restricted, unless mention is made of the special case (Cap. Abbatem 40, joined with the Gloss, words "Per litteram de Rescriptis, quia speciei non derogatur per genus"). But if one considers the aforementioned Encyclical letters, it appears that a new law was not introduced, but rather an old one was declared, renewed, and thus all doubt vanishes concerning the value of the aforementioned decrees. For, if a dispensation from the law has been granted by special grace, it cannot be understood how this grace could be removed by a declaration of the Prince, who, in order to correct certain abuses that have arisen in some dioceses, declares the pre-existing law. However, this seems scarcely to be the case when reading the aforementioned Encyclical letters. Furthermore, it must be observed that the Prince's decree ought to remain in force, and that, in order to maintain the grace, the most benign interpretation must be adopted (Rota decis. 299, no. 28, before Crescentio); hence, privileges are not considered revoked unless revocation is proven by the most exact proofs, which are lacking in this matter, according to what is taught by Menoch. praesumpt. 37, no. 7, lib. 6, Paris cons. 61, in fin., Gratian, loc. cit. discept. 791, no. 11. WHAT SEEMS TO INDICATE THAT DECREES HAVE BEEN ABROGATED. Contrary to this, it must be noted that certain liberties seem to have been granted by the Holy Roman Church to the parish priests of the Diocese of S., which the Pope wished to revoke in the aforementioned letters. From the very words of the Bishop's request, the burden of celebrating Masses for the suppressed feast days is clearly admitted, as he "humbly requested the Most Holy Father, that, with Apostolic benevolence, any previous omission be remedied, and that he may grant a permanent dispensation to the parish priests of his Diocese regarding this burden." Furthermore, upon examining this report, which seems to request an exemption from this burden for the parish priests of his Diocese permanently, not for the canonical reason of the poverty of the parishes, but only in order to restrain abuses introduced in his Diocese, together with the subsequent decree of the Supreme Prince, in which he is deeply saddened by the customs that...

[*Latin ed. p. 517*]

Since certain practices concerning MISSES FOR THE PEOPLE had become prevalent in some churches, and since the spirit of the Encyclical, which consisted in recalling the parish priests to their duty in this matter, seemed to indicate that the aforementioned decree obtained from the Most Holy Congregation was intended to be revoked by the Pope, this argument grows even stronger because these Encyclical letters, promulgated by the Supreme Prince through a general constitution, for the good and salvation of souls and after due deliberation by several Most Holy Cardinals, established that, in order to obtain a remission [of indulgences] in the future, only Our Congregation should be consulted, with the exception of those who are under the jurisdiction of the Congregation for the Propagation

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of the Faith. Therefore, considering the will of the Pope, who, through the aforementioned Encyclical letters, sought to curb abuses, and noting that the Most Holy Congregation also intended, for the Gallican region, to reduce the number of Masses for the people, it would seem that the Pope tacitly intended to revoke such extensive indulgences; and it is known that, by tacit revocation, decrees of grace, as in Chapter VI of the Rescripts, cease to be valid whenever they are withdrawn by the Supreme Pontiffs of the Church, without any mention being made of them, as stated in the Decree of the Sacred Congregation in the matter of the Eugubina Pension, of June 4, 1836, §. This is so true that the very Bishop who had ordered the decree, scarcely after its publication, immediately recalled the parish priests of his diocese to observe the common law, which at least implicitly was renewed by subsequent Bishops, and to which all parish priests, with a few exceptions, conformed over a period of twenty years. Therefore, if any doubt could still arise regarding this matter, it would be dispelled by the observance in a line of interpretation, which is considered the best interpreter of the law, and which claims the greatest authority, as in this case, if it is close and contemporary. Indeed, the contrary practice of some does not constitute an obstacle, because in this matter, the observance of the majority and the healthier part should be considered, not that of a few who have interpreted the law in a way that is more favorable to themselves, without regard for the good of souls.

[*Latin ed. p. 518*]

5. Regarding Masses offered for the people, and concerning their benefit, it is the opinion of the majority that all are deemed to have judged as the majority has judged. Canon 18 of the Decrees, respecting appeals, states this. Although, if it is still asserted that the aforementioned concession has not been revoked, yet, since a considerable period of time has elapsed during which almost all parish priests have not made use of it, it must be said that they have tacitly relinquished it. Just as someone seems to renounce their right, which they possess by common law, through a contrary action; much more so do they seem to renounce a right which they possess by privilege, since this is more easily revoked than common law. Castilian Law, in Law 4 of the Commissary, Alexander, Council 206, column 2, principal part, does not object; Gratian, in the aforementioned passage, Disputation 302, number 2, also states this. Furthermore, since this renunciation is considered to have been made by the majority, it is the same as if it had been made by all; as is stated in Regius, 60 ff., concerning the application of law, which applies to all that is done by the majority. Having considered these two points, the following proposition was put forward to be clarified: Can parish priests of the Diocese of S. refrain from applying the "Masses for the people" which were suppressed by the Concordat, and retain the stipends offered to them, applying them only within the year, and for the

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same purpose, in three sacrifices in the case of a deceased person?

RESOLUTION. The Sacred Congregation, after careful consideration on June 21, 1879, judged it appropriate to respond: No, unless they are parish priests who were in office at the time the Constitution was issued, and who still govern the same parish.

FROM WHICH WE GATHER:

I. All pastors of souls are obligated to apply the Mass for the people, not only for all Sundays, but also for other days which are still observed by command, and also for those who, by the indulgence of the Apostolic See, have been removed from or transferred from the number of obligatory feast days.

II. The Roman Pontiffs, as supreme legislators of the Church...

[*Latin ed. p. 519*]

MASSES FOR THE PEOPLE 549: It is possible, by virtue of a privilege granted to someone, to override the common law, and that same privilege, however ancient, can be revoked; for just as that supreme power can bind anyone and subject them to its law, so too can it revoke a pure exemption, initially granted.

III. Regarding the breadth of indulgences, it seems that the Holy Father wished to recall the decrees of this Holy Congregation, in order that the spirit of the Encyclical itself, which aims to eliminate abuses and restore the duties owed to the Parish Priest, might be observed.

IV. To claim a great authority and to be rightly regarded, in the line of interpretation, as the best interpreter, especially if followed by the larger and healthier part; for from L 18 ff. concerning reception, it is held that the judgment of the majority is considered to be the judgment of all.

V. In this matter, not only the larger and healthier part of the Parish Priests, but even the Bishop himself, scarcely after the publication of the Encyclical, had been certain that the Holy Father, through this Constitution, intended to restore the observance of common law by curbing unprecedented abuses.

FROM THE SACRED CONGREGATION FOR BISHOPS AND REGULAR CANONS. December 20, 1878, and April 4, 1879.

SUMMARY OF FACTS. Aloysius and Carolus, born of a noble lineage, had supplicated the Supreme Pontiff in the year 1855, that they might be permitted to erect in the Diocese of G. ”a community of perfect life with a novitiate under the Rule of the Religious Congregation O.” They also expressed their desire to make vows to the same Holy Congregation, to live entirely for God. For the establishment of this work, they offered the

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revenues of the estate and castle of Edi.... which belonged to Aloy-

[*Latin ed. p. 520*]

52Q. Concerning the TRANSACTION, he possessed it, and also the Church and certain lands called "Parm," located within the aforementioned Diocese of G. In order that the requested permission might be granted by the Pontiff, he desired to be assured of 1. the cession of the Church and the lands of Parm, with the favor of the Congregation of O. 2. the cession of the estate and castle of Ech, whose income he already knew was sufficient to support a religious family. After all these matters had been brought to execution, a decree was issued by the Sacred Congregation of Bishops and Regular Canons, which reads: "His Holiness, graciously receiving the prayers of the Oratorians, and having heard the petition of the Bishop of G, and the Abbot General of the Congregation of O, grants to the aforementioned Bishop the power to approve and confirm the stated contract of sale and purchase of the aforementioned property of Parm... with its buildings and the Oratory; and, after the contract has been perfected, and the cession of the estate and castle of Ech has been freed from all burdens and encumbrances, in the best manner possible, so that sufficient revenues may be obtained for the support of the monks; and, with the consent of the Abbot General, to erect within the aforementioned buildings a house of the same Congregation, under the express law of common perfect life, and to maintain a novitiate therein, provided that simple vows are taken, etc. Furthermore, after the entire price of the aforementioned property of Parm has been paid, and the monastic family has grown to a suitable number of monks, and the observance of the regular life has been proven in the new house, the monks may again appeal to the Congregation to obtain formal approval." Having obtained this decree, Aloysius and Carolus went to Parm to carry out the works that the Abbot General had designated; and they put on the religious habit in the month of September 1856. For the purchase of the property of Parm, with the house and church, 25,000 livres were paid. For the support of the religious family, the estate of Ech was assigned, which yielded an annual income of 13,000 livres, and represented a value of 270,000 livres. For what reason the house at Parm did not flourish, whether due to the harshness of the location or the lack of monks, it is not clear. It is certain that Carolus sought another location, and indeed, he found one in the Diocese of...

[*Latin ed. p. 521*]

TRANSACTIONIS 521: A small property called "St. Bert" was ceded to the Congregation of O. by a certain Baron at a fictitious price. The Abbot established his seat in this place, and Aloysius and Carolus were received into the minor orders there. Meanwhile, a certain woman, D. S., ceded and sold to the Abbot of the Order, as well as to Aloysius and Carolus,

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a property called "Mont," located in the Diocese of A., for the agreed price of 17,000 livres. Aloysius and Carolus added other lands to this property, purchased for 13,000 livres; they expanded the house at great expense, and undertook agricultural works beneficial to the health of the air. With the revenues from this last property, and other collections, a church was built, and a house was established as a novitiate, at the request of the Archbishop of A., and with the approval of the Holy Congregation of R.R. Carolus was appointed as Master of the novices by dispensation, and Aloysius as his assistant. Over time, serious disagreements arose in the religious house, and Carolus, having obtained permission, left the religious life. In the year 1873, he died, leaving a will in which he named Aloysius as his universal heir, with the condition that nothing derived from this inheritance should be left to the Congregation of O.; otherwise, the inheritance would pass to the testator's parents. Since Aloysius himself desired to leave the religious life, before permission was granted to him, an agreement was reached regarding the settlement of affairs; and a transaction was initiated after many discussions, which stipulated: "The property of Parm. shall be put up for public auction; the Fathers of O. will purchase it, and Aloysius will sign a document guaranteeing peace [i.e., refraining from any claims]." Regarding the house and property of St. Bert and Mont, Aloysius relinquished his rights to the first [i.e., St. Bert], and retained his rights to the second [i.e., Mont]. Aloysius will cede the house and property of Mont to the Archbishop of A.; the Archbishop, in turn, will leave the fruits of this property to Aloysius for seven years. Thus, having settled the affairs and with the transaction approved by the Pope, Aloysius left the religious life, and in July of the year 1876, he denounced this transaction as being tainted with injury, and brought it before...

[*Latin ed. p. 522*]

522. The terms of the transaction demanded a reduction. The Fathers of the Order [O.] objected, arguing that, since the matter concerned an issue in which a papal rescript had a place, two distinct points were raised: one concerning the validity of the verbal declaration, and the other concerning the validity of the transaction itself. The discussion was "optical," as Aloysius argued. Regarding the first point, concerning the verbal declaration, he stated that the transaction had been confirmed by a letter from the Most Eminent Cardinal Protector of the Order to the General Abbot of the same Order, which read as follows: "I am pleased to learn that, in order to resolve the unfortunate controversy arising from the testament of Bernard (1), the best possible means have been found to settle it, especially through your concern and singular kindness. The letters you sent, indicating the agreement reached, I have presented to His Most Holy Lordship; and He has added His approval, and, with His supreme authority, has declared the actions to be valid." Indeed, this letter contains nothing other than a verbal

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approval from the Pope, which is entirely different from a rescript. Reiffest, in his book 4, title 5, number 5, makes this distinction: "A rescript differs from a verbal oracle, which is the Prince's response, given orally and not in writing. For a verbal oracle is nothing other than a concession or favor granted by the Prince to someone, orally, without writing, whether it is done at the Prince's own initiative or at the request of a party." Schmalzgrueber, in his book 1, title 5, number 4, teaches the same thing, stating that a rescript (sumptus) contains only written responses given by the Prince, and in this sense it can be understood either strictly or broadly. Thus, in the present title, it is defined as a response given in writing by the Pope, Emperor, or another Prince, especially a supreme one, to a petition, report, or consultation. In this sense, it differs from a verbal oracle, because the latter is a response given by the Prince orally, even if it is later put into writing. (1) The name Bernard was taken in the Religious life from Charles.

[*Latin ed. p. 523*]

TRANSACTION 52: The difference lies in the form; but the matter of the transaction determines the form. For when it is a question of the oracle of a living voice, there is always the possibility of deception or fraud, which cannot be proven in any way. However, even if the writing of the Most Eminent Protector of the Order of O. contains a true rescript, it is not always forbidden for the highest tribunals of the Church, such as the Sacred Rota and the Holy Congregations, to inquire into such matters, especially when the rescripts do not have a clause of revocation and a nullifying decree. This is taught by Marta, on clauses, part 1, clause 178, number 10; by Marcheschi, *Variar, resolut*, book 2, chapter 1, number 9; by Marchesani, on commissions, at the beginning, number 18; by Piton, *Discipline ecclesiastica*, 108, number 2, and following; and by the Sacred Rota in decisions 257, 358, part 11. Recently, in the Roman Pension Fund, July 3, 1669, before Visconti; in the Abbey of Pampilona, May 4, 1670, before Ubago; in the Roman or Balneoregian trust, June 17, 1668, before Paolucci; and in the decisions 22, before Olivario; and also in the Roman nullity nomination and immission, concerning incompetence, January 30, 1857, before Rodrigtiez. The rule is subject to an exception: when it is a question of rescripts that emanate through the organ of some Holy Congregation. But a rescript issued by the Protector of the Order of O. is certainly not of this number. To proceed to the merits, that is, to reduce the transaction to the norm of equality, it must first be determined what value was given by Aloysius and Carolus to the Order of O. For this, according to Mont, the amounts far exceed 100,000 florins; and adding the expenses incurred for Parma, the sum reaches 129,000 florins. Adding to this what Aloysius and Carolus gave in order to support the religious families of the two monasteries of Parma and Mont, it can rightly be said that they paid more than 250,000 florins from their own resources. Given these facts, it is clear that only Aloysius

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and Carolus should be reimbursed, to the extent that they contributed. For the ownership of things given or granted can be revoked up to two months before the next profession. Indeed, the Council of Trent, Session 25, chapter 16, on regulations, states: "No renunciation or obligation shall be valid before..."

[*Latin ed. p. 524*]

"Transactions made, even with an oath, or in favor of any pious cause, are valid, unless they are made within two months preceding the profession, with the permission of the Bishop or his Vicar; and they are not to be understood as having effect except after the profession; otherwise, any such transactions, even if made with an express renunciation of this 'favor,' are void and of no effect." The purpose of this provision was to protect the freedom of the novice to leave the religious life before profession, as Schmalzgrueber notes in book III, title 31, number 99. The same author adds in number 121: "Things that are ceded or donated cannot be so transferred, unless the ownership of those things is irrevocably acquired by the recipient; because the Council of Trent wished that such a renunciation or donation should not take effect until after the profession. Therefore, since the ownership of ceded or donated things is revocable, those things must be returned to the monastery when the donor leaves with the novitiate." See Bouix de iure regni, part 4, section 1, chapter 6, number 36; Ferraris, Bibliotheca, voce "Novitiatus," number 66 and following. The profession of simple vows does not contribute to the validity of a cession; because the Holy See has expressly declared that the solemn profession must immediately precede the two-month period. "When can those who have emitted simple vows make a renunciation of which the Holy Council speaks in Session 25, chapter 16, de regulis, and also abdicate ownership of their own things?" This question was presented to the Most Holy Fathers, Pope Pius IX, and in an audience on August 1, 1862, His Holiness, with Apostolic authority, decreed and established: "The renunciation referred to in the aforementioned chapter 16, Session 25, de regulis, of the Council of Trent, is to be understood as applying to those who have emitted simple vows within two months before the solemn vows." In practice, the application of this principle was not without controversy, especially concerning expenses for the monastery, as there were cases where founders had already emitted simple vows and had left the religious life without making solemn profession. Regarding donations of property, it was objected that Abbot [name not given] did not transfer the property to France until August 1859.

[*Latin ed. p. 525*]

TRANSACTIONIS 525: It is alleged that [the religious order] received [a donation], and that before this time, the founders were unable to begin the novitiate due to a lack of resources. Therefore, donations, if made before en-

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try into the religious life, cannot be subject to the regulations of chapter 16, session 25 of the Council of Trent, concerning the religious order. However, this objection is flawed both in law and in fact. In law, it is highly debated whether a donation made before entry into the religious order, but with the intention of entering, is subject to the nullity prescribed by the Council of Trent. Schmalzgrueber, in the cited passage, number 127, teaches that if such donations have been made with the intention of entering the religious order, even if a judgment were to be rendered regarding their validity, the possibility of restitution remains open in the event that the person who renounced or donated, changed their mind and returned to the world, or did not enter the religious order at all; indeed, even if the donation is of greater value, restitution may be required, based on a general principle, and other just reasons may also be found. Among differing opinions, the view of Ventriglia seems to have prevailed, who states that a profession is always required for the validity of a donation, because a donation is not understood to produce its effect unless it is followed by a profession. This distinction has been maintained by the Sacred Rota Tribunal, as seen in the case of Ferrarien, canon 5, March 1698, § Potissimum, before Pope Pius. This pertains to the law. In fact, it is certain that the decree of the Sacred Congregation of Bishops and Regular Canons, which established the monastery of Parma, bears the date of May 1, 1856, and therefore, the donation is presumed to have taken place on that date. It is well known that the novitiate is counted from the day of the habit, according to the Council of Trent, chapter 1, session 25, concerning the religious order: "Nor shall anyone be admitted to profession who has not remained in probation for a period of less than one year." Furthermore, it is certain that, in October of the year 1856, that is, long before the donation, the founders were residing in the house in Parma. Oggeri argues to the contrary, claiming that the donation took place with the permission of the Supreme Pontiff. However, two things are required by the Council of Trent: 1. the donation, and 2. the subsequent profession; if either of these is lacking, the act is null. But the Pope's approval in this case simply demonstrates Apostolic Beneplacitum. Returning to the transaction itself, it is declared null and void.

[*Latin ed. p. 526*]

526. The transaction demonstrated a defect of consent and a substantial vice. The former arose from the threats that were actually employed against Aloysius, and the latter from the very nature of the matter. It is clear that the parties intended to effect a transaction in the subject matter. However, a transaction can only take place over uncertain rights, as stated in I. Praeses. 42 C. de transad, and according to the teaching of Zanchius in *De Lesione*, part 2, chapter 44, paragraphs SS and following. In this case, however, a transaction took place concerning Aloysius's most certain rights, and indeed, with an enormous injury: therefore, it must be said

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that Aloysius did not consent to a transaction, but was deceived, for he received barely thirty-five thousand livres for books worth almost one hundred and twenty-nine thousand livres, which does not even reach a third of the expense. Furthermore, the castle and estate of I/Ech should not be included in the restitution, since it was given only for the maintenance of the religious family. Indeed, from the year 1874, the founders reclaimed it, and no mention of it was made in the convention. Therefore, there can be no doubt about the enormous injury; and consequently, the nullity of the convention, or at least its reduction, must be decreed.

WHAT THE RELIGIOUS ORDER OBJECTED TO.

Regarding the opening of the archives, they first pointed out that the approval of the transaction by the Pope had been a true and proper papal rescript, issued *extra ordinem*, the effect of which is to grant the parties who transacted the right they sought, which no one is permitted to question without obtaining permission. Furthermore, they argued that this case was special, and that general theories could not be invoked. Rather, it should be considered whether there was any deception or fraud in the rescript, since it is known that a rescript against the Pope is granted when there is deception or fraud in the prayers presented, as stated by Cardinal De Luca in *De Iudiciis*, discourse 20, paragraphs 45 and following. In this case, a genuine exposition of the facts was presented to the Pope, and it cannot be said that he was deceived in any way. Therefore, there can be no mention of deception or fraud. Regarding the nullity of the transaction, they maintained that neither force nor injury had been proven in any way. There was no force, because the documents showed that the transaction had been freely and spontaneously carried out; there was no injury, because...

[*Latin ed. p. 527*]

TRANSACTION 527: Regarding the transaction, Aloysius regained rights over the estate of V. Eck, which he had irrevocably donated, and whose revenues amounted to 13,749 florins. Therefore, if it is admitted that the expenses incurred by the founders represented a sum of 129,000 florins, then the acquisition of the estate would not constitute a loss. For: 1. Aloysius obtained what he desired; 2. The expenses incurred by Aloysius in Parma and Montalto were covered by the revenues of the estate of V. Eck, which, under the worst-case scenario, would have accrued to the Order of O. over a period of ten years and eight months. Furthermore, it is proven that they collected a significant sum of money from pious benefactors, amounting to as much as 87,000 florins. In short, the transaction allowed Aloysius to obtain 392,000 florins in exchange for 129,830 florins that he and Charles had spent, assuming that the sum of 129,830 florins was provided by them from their own resources.

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It is not possible to argue in this matter (pious Aloysius cites from Chapter 16, session 25 of the decrees). For, in this case, we are not dealing with a monastery that already exists, to which novices donate before their profession, but with a monastery that is being newly founded. The Holy Father would never have permitted the erection of such a monastery unless it was ensured that there would be sufficient revenues for its maintenance, as prescribed by the decree of Urban VIII, which the Sacred Congregation published in the year 1625, stating: "Henceforth, a monastery... shall not be received anywhere, unless, among other things, it is required that at least twelve brothers... or monks or religious dwell there, and that they can be adequately sustained from its revenues and customary alms, after all expenses have been deducted." In this case, the Holy Father did not permit the erection of the monastery in Parma until it was established that there were sufficient revenues for the maintenance of the same monastery. Therefore, the Sacred Congregations desired that a report from experts be sent to Rome, from which the capital value of the estate and its revenues would be determined, and that it be proven that it was free from all encumbrances.

Aloysius and Charles were never the owners of the other properties of St. Bert and Montalto. For, although they may have donated them in whole or in part, it is certain that the donors intended to exercise their generosity in favor of the Order of O.

[*Latin ed. p. 528*]

528 Regarding these and other matters more extensively discussed, the following questions were presented to the Fathers by Emis: I. Whether there exist canonical reasons for the validity of a transaction concerning the opening of the cloister in case i – and, to the extent that this is the case, whether they are valid. II. Whether and how the transaction concluded on August 26, 1874, in case ii, is maintained. RESOLUTION. Emis and the Reverend Fathers, in the general assembly of December 20, 1878, judged that the following should be answered: To 1. negatively; – To 2. as provided in the first. However, having obtained permission for a new hearing, and since Aloysius did not present anything new in the Congregation of April 4, 1879, a new response was issued, as follows: From all of these things, it can be deduced that: I. The opening of the cloister can be valid even against a previously given papal response, provided that it is established that the matter in question pertains to the true nature of a rescript. II. The opening of the cloister should not be conceded, if it has been proven that the Pope was neither deceived by fraud nor by trickery. III. Fraud and trickery are to be excluded, since nothing was omitted that should have been stated, nor was anything added that did not correspond to the truth. IV. According to chapter 16, session 25 of the Council of Trent, concerning regulars, renunciations and donations made by novices, within two months prior to their profession, are null. V. The novitiate is to be counted from the day

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the religious is received. VI. Donations or renunciations that take place before entry into the religious order, but with a view to that very entry, are not to be considered as having effect, unless they are followed by the donor's profession. VII. These theories cannot be applied to the case in which the donation was made not to an existing monastery, but to one that was being established, and in such a way that the Pope considered it as a condition for the establishment of a new religious house. VIII. A transaction concerning a clear matter cannot exist, because the foundation of a transaction is doubt, either of fact or of law. IX. In the matter at hand, a true doubt of both fact and law existed; therefore, the transaction produced its full effect.

[*Latin ed. p. 529*]

529 APPENDIX: AUTHENTIC DECREES FROM THE ACTS OF THE EIGHTH SESSION. In Mexico, the Most Reverend Dom Pelagius Antonius Lavastida, Archbishop of Mexico, humbly requested of the Sacred Congregation of Rites that, at least within his Metropolitan Church and the Collegiate Church of the Blessed Virgin of Guadalupe, the ancient custom be maintained of placing two missals during the sung Mass, one on the Epistle side and the other on the Gospel side, a practice observed in all churches of the Archdiocese from ancient times. The Sacred Congregation, having heard the report of this request made by the undersigned Secretary, responded and approved: "The rubrics are to be observed, and the decree is to be issued on the 7th of September, 1816, at the XIII session." And thus it was decreed and ordered to be observed on April 2, 1875. LEMOVICEN. The current Bishop of Lemovica proposed the following two questions to the Sacred Congregation of Rites: QUESTION I. Can Bishops, whether by ordinary right or by custom, delegate to minor priests all the blessings described in the Roman Ritual and reserved, in which the sacred unction is not involved? QUESTION II. Can Vicars General, according to Acts, volume XII, page CXLII, SACRORUM RITUUM COLLECTA, delegate these blessings, whether by ordinary faculties or by a "special delegation in the name of the Bishop"? If the answers to these questions are negative, the aforementioned petitioner humbly requested that the Sacred Congregation validate all blessings given in the Diocese of Lemovica up to this day without delegation. The Sacred Congregation, having heard the report made by the undersigned Secretary, decided to respond: "To I: Negative. To II: As provided in the first." Regarding the request, it responded: "Considering the difficulty of the matter, the Reverend petitioner should acquiesce." And thus it was decreed on April 2, 1875. CARTHAGINE. IN INDIA: His Lordship reported that in this Diocese, for a long time, the custom has been in force whereby the bodies of the deceased, after having been laid in the tombs of cemeteries for ten and eight months, may be removed from said tombs and placed in closed containers in excavated cavities in the floors of

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churches. These cavities, containing the bodies, are covered with a marble slab, bearing the name and the date of birth and death, and arranged so that they do not protrude even slightly from the level of the floor. In previous times, due to a misunderstanding...

[*Latin ed. p. 530*]

APPENDIX VIII. 530

*Concerning the tolerance within the Churches of MEDIOLANUM. There have also been bodies of heretics and Protestants. The abuse in Mediolanum. This matter, though remote, was presented to the Congregation of Sacred Rites, and it was stated that, while the prescriptions of the Church are observed regarding the burial of the dead, a very great clamor exists among Catholics concerning the true remains of their deceased in the churches, and that, as it is customary for the diocese to request that more of these remains be brought from the archives, and although the authenticity of these remains may be doubted, it is said that the aforementioned Curia [presumably a local ecclesiastical court] maintains that the Ordinary [the bishop] can authenticate them and grant them some alms, so that they may be publicly venerated. Therefore, in order to obtain this privilege, the Most Reverend [presumably the bishop of Mediolanum] deemed it appropriate to humbly request that the Sacred Congregation be consulted.

1. Whether the remains, which are claimed to be the same as those that were kept in the sacristy of the Archpriest of Mediolanum at the beginning of the century, although they lack the name of a saint, to whose particles the bodies of the faithful deceased may be consigned in the churches, may be authenticated by the Ordinary and given to the pious petitioner?

The Sacred Congregation, after hearing a report from the aforementioned Secretary and considering the request, decided to inform the Most Reverend that the practice described above is not to be approved, insofar as it violates the canonical regulations and insofar as it harms the stability of the sacred buildings. However, with regard to the bones and bodies of heretics, which are already buried in the churches, they should be removed if they can still be identified, using all due prudence; and the churches themselves should be cleansed, if the Most Reverend Bishop has not already done so, because they have been polluted by the burial of heretics.

2. And, assuming that the remains are authentic, what form should be used for the authentication?

The Sacred Congregation, after hearing the aforementioned Secretary and consulting with another of its Theologians, after mature and careful consideration, decided to write as follows: Regarding the authenticity of

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the remains, it is affirmed that they are sufficiently established; regarding their distribution, it is not necessary. And thus it was written and ordered to be observed on April 23, 1875.

Rome, April 23, 1875.

To the Most Reverend and Reverend Brother Bishop of Carthage, in India.

My Lord, as a brother, the Most Reverend [presumably the bishop of Mediolanum] has presented this matter to the Sacred Congregation.

NANNETEN.

[*Latin ed. p. 531*]

The alumni of the Order of St. Francis, now called the Recollects of St. Nazarius, have erected a chapel adjacent to their monastery in the city of Nante, and have dedicated it to the most merciful Heart of Jesus. Since some have doubted whether it is permissible to use the word "merciful" in place of the most sacred word that has been in use up to now, or at least whether this appellation suggests a novelty, the aforementioned Eminence humbly requested that the Sacred Congregation declare: Whether the appellation "merciful heart" is to be admitted or rather prohibited in this case? The Sacred Congregation, after mature and careful consideration of the report of the undersigned Secretary, replied as follows: Let it be known to the Most Reverend Bishop, the Orator, that the common appellation, namely, the most sacred heart, must be maintained. Rome, April 23, 1875. To the Most Reverend Lord, as Brother, Bishop Felice Tournier of Nante. The Most Reverend Lord, the present Bishop of Nuscan, in a report on the condition of the Church entrusted to him, transmitted to the Sacred Congregation of the Council, proposed the following, under number IX: Since in the Diocese of Nuscan the custom of presenting obedience annually to the Bishop by all ecclesiastical administrators, along with an offering of wax, and, if the Cathedral is included, a blessed candle on February 2nd, and a palm, is lacking, it is asked: Can the Bishop impose all of these laudable customs? Or at least the first, on the second Sunday after Easter, or rather on the last Sunday of July, when the feast of St. Amatus, the first Bishop of that Diocese and Patron, is celebrated? Since the same proposal was deemed suitable for resolution by the aforementioned Sacred Congregation of the Council and was transmitted to the Sacred Congregation of Rites, the Sacred Congregation of Rites declared, after consideration of the report of the undersigned Secretary: No liturgical or canonical law of the Church requires non-cathedral churches to perform the acts of obedience mentioned in the aforementioned question. And so it declared, April 23, 1875. The Most Reverend Lord, as Brother, Eminence has explained to this Sacred Congregation of Rites that it is quite impossible, given the ancient custom and the special circumstances of the place, to publish an edition of the Collection of Particular Rites to be retained by the Clergy of the Dio-

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cese of St. Hippolytus, concerning the administration of the Sacraments, in funerals, blessings, and processions, according to the decree of the Sacred Congregation of Rites of July 12, 1866, given to my predecessor, Joseph Fessier; unless that prescription is removed from the aforementioned text, which urges the unction of the feet and loins in the administration of the Sacrament of Extreme Unction; and therefore, he requested that the same Sacred Congregation remove that prescription from the edition itself. The Sacred Congregation, having heard the matter...

[*Latin ed. p. 532*]

APPENDIX VIII. 532 Following a request of this nature made by the undersigned Secretary, and also the vote of the Most Reverend Promoter of the Holy Faith and the Assessor of the same Sacred Congregation, it has been decided to respond as follows: Regarding the manner of administering the Extreme Unction to the sick, and especially concerning the unction of the feet, petitions are to be sent to the Most Holy and Universal Inquisition. While, for the reasons pertaining to my office, I signify this to Your Eminence, I also earnestly pray for your lasting happiness. Rome, April 23, 1875. To the Most Reverend Lord, as to a Brother Bishop, Most Reverend Father, In the sixteenth century, when the Calvinist heresy was flourishing in the city of Tornac, the following ceremony began to be used in the Cathedral, in the choir, namely, while the Creed is being sung, the subdeacon, having received the book of the Gospels, goes around the circle of Canons and seminarians attending Mass, offering each a closed book, which each touches with their right hand, saying: "I believe and I confess." Now, since the Canons of the aforementioned Cathedral strongly desire to maintain this custom, they humbly requested a suitable privilege from the Congregation of Holy Rites, with the permission of the Most Reverend Ordinary. The Sacred Congregation, after careful and thorough consideration, with the report of the undersigned Secretary, decided to respond as follows: The custom of which you wrote is not in conformity with the laws of the Holy Liturgy. And so, it responded on April 23, 1875. LISBON. To His Eminence, It has been reported to this Sacred Congregation, in the Patriarchate of Lisbon, with the knowledge and consent of the Ordinaries, that the custom of exposing the Most Holy Sacrament on certain feast days has been in effect, through a special mechanism constructed for this purpose, or in the hand of a statue of the Blessed Virgin Mary, or next to the wounded image of Our Lord Jesus Christ hanging on the Cross. Now, since Your Eminence is uncertain whether this custom, despite the long time during which it has been practiced, should be continued, you have requested that this Sacred Congregation declare its opinion. The Sacred Congregation, having heard the report made by the undersigned Secretary, has decided to respond as follows: It is to be signified to Your Eminence that the custom in question must be entirely abolished; since the Clementine Instruction commands

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that statues should not be placed on the altar on which the Most Holy Sacrament is exposed, and that the Sacrament itself should be exposed in a more prominent place: these prescriptions are entirely contrary to the custom in question. Rome, April 23, 1875. LISBON. To His Eminence, The following was presented to this Sacred Congregation by Your Eminence: From Ru-

[*Latin ed. p. 533*]

K. VIII, section b, of the Missal, Title V, No. 8, prescribes that whenever the celebrant sings Mass without sacred ministers, the Epistle should be sung by a reader wearing an alb. However, if no reader is present, as frequently happens in monasteries and in rural churches, what should be done is not prescribed by the rubric or by decrees. After these matters were explained, the following questions were proposed to the Most Reverend Father for a suitable solution:

QUESTION I. Is it sufficient for the Epistle to be read only by the celebrant himself, or must it be sung by him?

QUESTION II. In monasteries, can a nun sing the Epistle in the choir?

QUESTION III. Must the singing of the Epistle be omitted entirely?

The Holy Congregation, having heard the report made by the undersigned Secretary, responded as follows:

"Write to the Most Reverend Patriarch of Lisbon, with the following in mind: When Mass is sung without ministers, and there is no cleric present to sing the Epistle wearing an alb, according to the rubrics, it is better that the Epistle be read without singing by the celebrant himself; but it should never be sung by one of the nuns in monasteries."

Rome, April 23, 1875.

To the Most Reverend and Most Reverend Cardinal Patriarch of Lisbon.

AT THE CHURCH OF SANCTI MINIATI, in the Cathedral of Sancti Miniati, the chaplains, to whom, according to the Capitular Constitutions, it belongs by turn to perform the office of deacon and subdeacon, have, by the most ancient and unmemorable custom, assisted the canon who is singing Mass or celebrating other sacred functions, by offering and presenting the amictus, alba, etc. This has also been constantly taught to young clerics by the Masters of Ceremonies in the seminary. But since, in the calendar of the current year for this city and diocese, the following decree has been inserted: "Deacons and subdeacons are not to assist in the celebration while the celebrant is wearing sacred vestments," (S.R.C., June 13, 1676), the aforementioned chaplains, adhering to this decree, refuse to assist the aforementioned canon while he is wearing sacred vestments.

After these matters were explained, the canons of the same Cathedral humbly requested that the Holy Office of Sacred Rites declare:

Whether the most ancient and unmemorable custom of assisting the

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canon who is celebrating Mass while he is wearing sacred vestments, as mentioned above, should be maintained; or whether, in the future, both the canons and the chaplains should adhere to the decree of June 13, 1676, as transcribed verbatim above.

The Holy Congregation, having heard the opinion of one of the Masters of the Apostolic Ceremonies, decided to respond to the report of the undersigned Secretary as follows:

"Affirmatively to the first part; negatively to the second, in the case proposed."

And thus it responded and ordered that it be observed in the Cathedral Church of Sancti Miniati, April 23, 1875.

FROM THE CONGREGATION OF THE TRAPPIST ORDER OF CISTERCIANS OF RANCÈ:

Most Reverend Father, Abbot Benedict.

[*Latin ed. p. 534*]

S34. APPEN! The monastery of Westmalle, located within the Archdiocese of Mechelen, and the General Vicar of the Trappists of Rancé in Belgium, in order to put an end to a certain controversy that had arisen among his students, proposed the following question to the Congregation of Sacred Rites, namely: Whether the Trappists of Belgium, notwithstanding the constitutions of the Abbot of Rancé, which they follow in matters pertaining to discipline and regular life, can and should retain and observe the ecclesiastical rites customary among them for a long time, and whether these rites are in conformity with the prescriptions of the Missal, the Breviary, the Ritual, and are approved by the custom of the Roman Church? The Sacred Congregation, having heard the report made by the undersigned Secretary, and also the opinion of the Most Reverend Father, the current General Procurator of the Cistercian Order, after mature and careful deliberation, decided to respond to the proposed question: It is to be affirmed and praised that the Trappists of Belgium have rendered obedience so promptly and so fully to the decrees of the Holy See previously issued. And thus it responded on April 23, 1875 (1). URGELLEN. The Reverend Father Clemens Pujol, Secretary of the Bishopric of Urgell, on behalf of the Most Reverend Bishop, presented to the Congregation of Sacred Rites the following information: That in jurisdictions previously exempt, but now, by virtue of the Holy Father's Bull, united to this Diocese of Urgell, namely in the Abbey of Gerne, in the Rectory of Murens, in the Priory of Mujà, and in the parishes of the Order of St. John of Jerusalem located within the boundaries of this Diocese, special patronal feasts are celebrated. From this, he proposed the following question: Whether the general patron saints of the Diocese

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should be celebrated in these jurisdictions? And, if so, whether the feasts of the patron saints that have been celebrated up to now should be celebrated in them? The Sacred Congregation of Rites, having heard the report made by the undersigned Secretary, and also the opinion of another of the Masters of the Apostolic Ceremonies, and having examined the article of the Convention, decided to respond as follows: To the first part of the question, affirmatively; to the second, negatively, except for the patron saints proper to each place. And thus it responded and ordered it to be observed on June 19, 1875. ORDER OF CARTHUSIANS. The Most Reverend Father, the current General Procurator of the Order of Carthusians, humbly requested the Sacred Congregation of Rites to declare: Whether a priest who celebrates one Mass on the Nativity of the Lord is obliged to recite the appropriate Mass of the Hour, namely the first before dawn (by privilege), the second if at dawn, the third if after dawn; or whether he must absolutely recite the third, which is more in accordance with the canonical office, as is stated in some calendars (1). The decree that follows can be found in the Gardellian Appendix, Volume IX, page 316.

[*Latin ed. p. 535*]

VIII. It is asked: If a priest celebrates only one Mass, should he read the Gospel of the Epiphany at the third hour? The Holy Congregation, having heard the report made by the undersigned Secretary, and having carefully and maturely considered the matter, decided to respond as follows: A priest who celebrates only one Mass should read the Mass that corresponds to the approximate hour, according to the specific rubrics of that day. And thus it responded and ordered it to be observed on June 19, 1875.

LUCERINA: The Most Reverend Joseph Maria Cotellysa, Bishop of Luceria, petitioned the Sacred Congregation for Rites to declare: Whether a priest can celebrate only two Masses on the feast of the Nativity of Our Lord Jesus Christ, provided that, with the privilege of celebrating three Masses on that day, he represents the Mystery of the Eternal, Temporal, and by grace, Generation in the soul of the just; it does not seem to signify anything if only two Masses are celebrated in that feast. The Holy Congregation, having heard the report made by the undersigned Secretary, and having carefully and maturely considered the matter, decided to respond as follows: Affirmative, that is, a priest can, if he wishes, celebrate only two Masses on the feast of the Nativity of the Lord. And thus it declared on June 19, 1875.

CIVITATIS CASTELLI: The Most Reverend Joseph Moreschi, Bishop of Civitas Castelli, presented to the Sacred Congregation for Rites that, on the last day of the Exposition of the Blessed Sacrament in his Cathedral, the blessing was conferred with the Blessed Sacrament in the manner of

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the Forty Hours, and that the sacred vestments were worn in the sacristy by the deacon and subdeacon, while the other canons were only vested in their choral habits. As he was going to the church and the altar, the question arose: whether the canons should precede or follow the Bishop vested in the sacred vestments with the deacon and subdeacon, since the words of Book I, chapter X, § X, of the "Ceremonial of Bishops" are interpreted in various ways. Hence, the following question was proposed: Whether, in this case, the canons should precede or follow the Bishop? The Sacred Congregation, having heard the report of this matter made by the undersigned Secretary, decided to respond as follows: In the case in question, the canons, vested in their choral habits, should precede the Bishop. And thus it responded and ordered it to be observed on June 19, 1875 (1).

FLORENTINA: The present Master of Ceremonies of the Metropolitan Church of Florence humbly implored the Sacred Congregation for Rites to deign to declare how the Rectors of Parishes should behave if, during the Exposition of the Blessed Sacrament for the Forty Hours of Prayer, funeral services must be held over a body that cannot be embalmed or buried until the aforementioned Forty Hours are completed.

(1) The decree that follows can be found in Volume VIII, page 721.

[*Latin ed. p. 536*]

APPENDIX VIII. 536 rarum. The Ceremonial Congregation, having heard the report concerning this matter, and following the method described by Cavalieri in Volume II, page 233, No. VIII, but since this practice does not please all, and some Masters of Ceremonies have objected, considering that, in order to perform the aforementioned funeral rites, another *Cereus* of lesser size can be used, provided that it has already been blessed once, wrote the following: Regarding this matter, a decree has been issued, and therefore, having recourse to the same, they requested that this controversy be resolved and a clear rule given for the aforementioned cases.

SOANEN and PITILIANEN. The Ceremonial Bishop of the Cathedral Church of Soanen and Pitilianen humbly proposed the following question to be resolved: Whether, from the decrees hitherto issued by the aforementioned Sacred Congregation concerning the consecration of Holy Oils, especially from the decree of January 24, 1643, it should be understood that a dispensation is required not only due to a lack of 12 priests, but also due to a lack of 7 deacons and 7 subdeacons?

The same Sacred Congregation, having heard the report made by the aforementioned Secretary, and having carefully considered the matter, decided to respond as follows: Affirmative, that is to say, a dispensation must be requested from the Holy See as often as it occurs due to a lack of both priests and ministers in the case of the consecration of Holy Oils. And thus

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it declared on June 19, 1875.

MEXICAN. The Most Reverend Dom Pelagius Anthony de Lavastida y Davalos, Archbishop of Mexico, reported that in his Metropolitan Church, during the greater week, the custom of using a small *Cereus* that has not been blessed, in the blessing of the font, has arisen, provided that it is absolutely impossible to use one that has been blessed, due to its great size. He therefore requested that, on the aforementioned days, two candles be blessed, one to be used on the side of the altar, and the other to be carried in the procession and used in the blessing of the font.

R. D. Antonius Fabriziani, Ceremonial Bishop.

The Sacred Congregation, having heard the report made by the aforementioned Secretary, and having carefully and maturely considered the matter, decided to respond as follows: According to the Clementine Instruction, on those days, the celebration of Masses for the dead, whether solemn or simple, must be abstained from, and the solemn Mass for the deceased may be celebrated on the third, seventh, thirtieth, and anniversary days from the day of the death or burial of the deceased. And thus it responded and ordered it to be observed on June 19, 1875.

VOLATERRANA. The Most Reverend Ferdinand Capponi, Bishop of Volterra, humbly proposed the following questions to be clarified to the SS. R. R. Congregation, namely:

[*Latin ed. p. 537*]

VIII. DOUBT I. In the Diocesan Calendar, the Office of Saint Canute, King and Martyr, is assigned for the clergy of the Cathedral Church on the 14th of February, because the 19th of January is impeded by a double feast, namely, the feast of the Holy Martyrs Mary and her companions, due to a notable relic present in the Cathedral Church; and this is according to the most ancient custom. Therefore, it is asked whether this custom should be maintained, or rather, whether one should follow the rubrics which forbid semi-doubles to be transferred at will, but which order them to be omitted if impeded, as in this case?

DOUBT II. When the Most Holy Sacrament is publicly and solemnly exposed on the main altar of the Cathedral Church, is it necessary to remove the baldachin from the Episcopal throne, even if the Bishop does not sit upon the throne itself when performing sacred functions, or can it be retained as an ornament of the Cathedral Church?

The Sacred Congregation of Rites, after mature and careful consideration of the aforementioned doubts, with the reference of the undersigned Secretary, decided to respond as follows: To I. The custom should be observed, with the approval of the Most Reverend. To II. Negatively to the first part; affirmatively to the second.

June 19, 1875.

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The aforementioned doubts, concerning the first point, were faithfully reported to His Holiness, Pope Pius IX, by the undersigned Secretary; and His Holiness approved and confirmed the judgment of the Sacred Congregation.

July 1, 1875.

PETROCORICENSE. The Most Reverend Nicholas Joseph Dobert, Bishop of Petrocoria, and S37 Salaten, in Gaul, presented the following to the Sacred Congregation of Rites: From the beginning of this century, in the dioceses of Gaul, Canonicals, or Titulars, or Honorary Canons, who wear the rochet and mozzetta for their canonical habit, use these not only in the Cathedral Church, or when they proceed capitularly, or assist the Bishop in performing some sacred function, but also throughout the diocese when they go to some church, either to preach or to attend some ceremony. And this manner of acting is observed in all other dioceses of Gaul, so that it can certainly be said that this custom is general and has been proven over a long period of time. But, on the one hand, various decrees of the Sacred Congregation of Rites seem to oppose this custom, and, on the other hand, this custom could not be abolished without causing astonishment among the people and causing inconvenience to the Canons, who have worn the canonical habit everywhere in the diocese for so long. Therefore, the aforementioned prelate humbly inquired of the same Sacred Congregation: Whether it is permissible to tolerate this custom, and whether, at least for the time being, it is permissible to abolish it in other dioceses of Gaul by order of the Holy See, or whether he is obliged to abolish this custom in his own diocese?

The same Sacred Congregation, after hearing the report made by the undersigned Secretary, decided to respond: Nothing is to be changed.

August 2, 1875.

[*Latin ed. p. 538*]

APPENDIX 538 BRIXIA. To the Most Reverend Lord, as Brother, Regarding the Feast of the Precious Blood, VIII. Concerning the most holy Blood of Our Lord, the Seven Sorrows of the Blessed Virgin Mary, and the Immaculate Conception, certain doubts have arisen regarding the observance and translation of these offices, following the recent publication of the aforementioned documents on July 28th. Therefore, the Most Reverend Lord, Jerome Verzeri, Bishop of Brixia, has proposed the following doubts to the Congregation of Sacred Rites, to be considered:

DOUBT I. Whether the office of Saint Joseph should be transferred, or rather, whether the Feast of the Precious Blood should be transferred? And whether the Feast of the Annunciation of the Blessed Virgin Mary, with its octave, should be celebrated, and whether it should be transferred to the following Sunday; and if it is to be transferred, when should it be trans-

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ferred, since these feasts have been granted to the diocese of Brixia. Since the feast was under the dominion of Venice, a doubt arose whether, with the change of dominion, the aforementioned indulgences would cease to be valid.

DOUBT II. Whether the complete Vespers should be recited from the preceding day, or from the following day?

DOUBT III. Whether, for the reason that, in this matter, there is a doubt, the Feast of the Seven Sorrows of the Blessed Virgin Mary should be omitted that year, or whether it is permissible for the Congregation of Sacred Rites to humbly request a declaration, and to celebrate at least a private Mass?

The Sacred Congregation, having heard the report made by the aforementioned Secretary, and having carefully considered the matter, decided to write to the Most Reverend Lord, informing him that, from the Apostolic See, the following is decreed:

I. The Feast of Saint Joseph is to be celebrated throughout the dominion. The Feast of the Precious Blood of Our Lord and the Feast of the Seven Sorrows of the Blessed Virgin Mary are to be omitted, but the Feast of the Immaculate Conception is to be observed in its entirety, and the octave is to be celebrated on the following Sunday, according to the particular rubrics, as decreed in Bocarcena, in Sardinia, on March 23, 1771.

I. Rome, August 7, 1875. - To the Most Reverend Lord, as Brother, to be celebrated by the Bishop of Brixia.

II. and III. Provision is made in the first decree. And thus it was written and ordered to be observed on August 7, 1875.

BRIXIA. In the calendar of Brixia, it may sometimes happen that three offices occur on March 19th, namely, the Office of Saint Joseph, the Spouse of the Blessed Virgin, and the Feast of the Precious Blood.

PARIS. De Baudet of Paris, wishing to help the poor of Saint Joseph in France, discovered a new method for churches.

[*Latin ed. p. 539*]

XVIII. Concerning the burning of incense without charcoal in ecclesiastical functions. He therefore devised a composition consisting of four parts, one of incense and the other three of resinous materials. This composition, placed either in a thurible or in another vessel, when lit with a flame, emits a pleasant fragrance, and it is intended to replace the burning of incense in fire, whenever it is prescribed in ecclesiastical functions. This composition is said to be used not only in many parishes of France due to its lower cost, but has also been praised by some officials of that nation. Hence, the aforementioned Orator, so that his invention might also benefit other churches throughout the world, humbly requested the Sacred Congregation of Rites to approve it, and to grant permission for all churches that wish to do

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so to replace the burning of incense in fire, as has been done until now, with the burning of the composition he invented, whenever incense is to be used in ecclesiastical functions. The Sacred Congregation of Rites, having heard the report on all matters made by the undersigned Secretary, and also having considered the opinions of two Masters of the Apostolic Ceremonies, decided to write the following: The new method of burning incense proposed by Mr. de Baudet of Paris for use in sacred functions is to be entirely approved. And so it wrote and ordered that it be observed everywhere on August 7, 1875. CUNEEN. The Most Reverend Bishop of Cuneo, the current Bishop, has already consecrated several churches in his diocese, and intends to consecrate more, God willing. In order to ensure that everything is carried out properly, he proposed the following questions relating to this matter to the Sacred Congregation of Rites: QUESTION I. Besides the parish churches which, according to the decree of the Council of Rome under Benedict XIII (Title XXV), must be consecrated, can any other public churches be consecrated, such as: 1. Chapels located in the countryside where the priest usually resides and where he celebrates Mass and administers the sacraments; 2. Oratories of confraternities that are separate from the parish church; 3. Those commonly called sanctuaries, in which Mass is celebrated either only during the summer months, or only on a few occasions? QUESTION II. According to the rubric, the altar must be made of stone. However, since a fixed altar differs from a portable altar, and the former must be connected to a pedestal, and therefore the pedestal and the table should be one piece, it seems to follow that the pedestal itself, just like the table, should be made of stone. Nevertheless, when examining the writings of canonists and other learned authors, one finds that they agree that the structure beneath the table can be made of brick, and that it is sufficient if the table or top is made of stone. Liturgical writers are either completely silent on the matter, or they touch upon it only lightly, without giving a definite rule, except for one very recent author, Pius Martinucci, who in his Manual of Sacred Ceremonies, published in Rome in the year just past, book VII, chapter XVIII, number 2.

[*Latin ed. p. 540*]

§40 APPENDIX VIII. He openly states that the altar's base can indeed be made of brick, but that it must be supported by at least four stone pillars, upon which the table rests, and that these pillars must be joined to the table itself through holy oil. Given these premises, is it sufficient for the altar's fixed base to be made of brick, or must it be made of stone, and if so, by what reasoning does the esteemed author suggest this?

DOUBT III. The Roman Pontifical prescribes vigils to be observed before the relics are placed in the altar. Is it sufficient to recite Matins with the Psalms once in the evening hours, after which the sanctuary or chapel remains closed, or must it be chanted throughout the night, until the relics

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themselves are solemnly carried in procession to the altar for consecration, as is reported by Oatalanus in the Roman Pontifical, and by Gardellinus, or by whoever is the author of the notes to the Sacred Rites Congregation's Decree 4593?

DOUBT IV. The Roman Pontifical, in its preliminary rubric, prescribes that two lighted candles be prepared, which should always precede the priest; and when the Bishop begins to go around the outside of the church, it commands that this be done with two acolytes preceding him with lighted candles. In neither place is there mention of the processional cross, which is prescribed to be carried only when the Bishop, with the clergy, proceeds to solemnly transfer the relics into the church. However, some have considered it appropriate to use a processional cross from the very beginning of the function; perhaps this is suggested by the rubric in the Roman Ritual (Rites for blessing a new church), where it is written: "Let the cross be carried among two clerics bearing lighted candles." Is the processional cross only for the transfer of the relics, or is it to be used at all times?

DOUBT V. The Pontifical itself, after prescribing that an aspergillum made of hyssop be prepared, only explicitly mentions it later, when the blessed water, with salt, ashes, and wine, is first sprinkled around the altar, and then inside the church with this same water. Is it also, as some believe, appropriate to use the aspergillum made of hyssop when sprinkling the exterior walls of the church?

DOUBT VI. According to the Roman Pontifical, the reliquary is to be carried by four priests. Should these priests wear priestly vestments, namely the amice, alb, cincture, and stole, as the aforementioned Pius Martinucci states, or is it sufficient for them to wear a surplice?

DOUBT VII. Before the Bishop enters the church with the reliquary, he must anoint the door of the church on the outside with sacred chrism. Should the door itself, which is usually made of wood, be anointed, or rather, should the two stone or brick pillars be anointed, as the esteemed author soon teaches? The Sacred Congregation, after carefully considering the aforementioned points with the undersigned Secretary, decided to respond to the proposed doubts as follows: Regarding I. Bishops are obligated to solemnly consecrate at least the cathedral and parish churches. As for smaller churches, if they do not wish to exercise their right to solemnly consecrate them...

[*Latin ed. p. 541*]

IX VIII. They should grant to priests the faculty of consecrating [altars], so that they may bless them. Ad IL For an altar to be consecrated, it is necessary that, even in its base, at least the sides or columns by which the table is supported, be made of stone. Ad III. The Sacred Vigils prescribed in the Roman Pontifical are to be performed throughout the entire night.

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Ad IV. It is not to be disapproved of, the custom generally received, of carrying the processional cross at the beginning of the sacred function. Ad V. Affirmative. Ad V I . It is fitting that, according to the custom generally received, priests should be vested in sacred vestments in such cases. Ad VII. Negative, to the first part; affirmative, to the second. And thus it was written, declared, and ordered to be observed on August 7, 1875. CLODIEN. Reverend Monsignor, Most Reverend Domninicus Agostini, Bishop of Clodien, humbly requested that the following questions be answered: QUESTION I. Since, in the Diocese of Clodien, the feasts of Saint Margaret of Cortona and Saint Didacus the Confessor have been raised from the rite of semi-double to the rite of double in recent years, and without any special privilege having been obtained for this, and since the Sacred Congregation of Rites declared on September 20, 1806, in Brixen, that this elevation, which was said to have been made by Pope Pius VI, was not valid; it is asked whether the same Diocese can continue to celebrate these feasts under the rite of double, given the custom of almost a century. QUESTION II. Given the custom, from time immemorial, of adding a special prayer for the proper Bishop among the other prayers prescribed on Holy Saturday, it is asked whether, notwithstanding decrees to the contrary, this ancient custom can continue. QUESTION III. Can the Bishop order that a collect for a grave matter, e.g., for the Pope, be recited even in a Solemn Mass of the first class, with only one conclusion? QUESTION IV. Can the Solemn Mass for a grave matter be sung, according to the rubrics, if the Mass of the Office is not sung? And if the Mass of the Office is not sung, must the Office prayer and other prescribed prayers be added to the Solemn Mass, or must only one prayer be said? And is the same to be done when the Solemn Mass is sung for a feast which, according to the rubrics, is to be transferred? And also, when a church has obtained the privilege of singing the Mass, or of reciting all the Masses, which do not conform to the Office of that church? QUESTION V. In the Mass for the exposition or reposition of the Most Holy Sacrament, is it to be done according to the Cardinal Vicar's table, which prescribes that the Mass of the Office be sung, with only the prayer of the Most Holy Sacrament, with one conclusion, or rather, according to the decree of the Sacred Congregation?

[*Latin ed. p. 542*]

542 APPENDIX VIII. from December 18, 1779 (4395 to 8), which prescribes that the prayer of the Most Holy Sacrament be joined at the end of other commemorations "of precept."

DOUBT V. The parish church of Saint James the Apostle enjoys a privilege obtained a few years ago, whereby, on every Sabbath day (excepting feast days), the Mass of the Blessed Virgin Mary is sung. The question is asked: whether, in this Mass, the prayer of the Blessed Virgin Mary should be accompanied by "the office prayer, and other prescribed prayers, or

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whether it should be celebrated with the Creed and the unique prayer?"

DOUBT VII. In the Diocese of Clodien, it has become customary in solemn Masses, whether with or without ministers, which are celebrated with the sound of the organ, to abstain from singing the Gradual, Tract, Sequence, Offertory, Benedictus, and Communion. The question is asked: whether this custom is contrary to the Rubrics or the Decrees of the Congregation for Sacred Rites?

DOUBT VIII. In the Cathedral, on every Sabbath day after the Sunday of the Passion (or on the feast day itself, if it falls on a double major or minor feast, or on the preceding Friday), the Office for the Dead is celebrated with a Mass for the Repose, from alms collected by the citizens, even if a double feast occurs on that day. The question is asked: whether it is permissible to do this due to custom, and if not, whether the necessary permission should be requested from the Holy Congregation to do so?

DOUBT IX. Can anyone conform the time of reciting the Divine Office, or the prescribed natural fast before Communion, or even the abstinence from meat or dairy products on days of fasting, to the specified time, either completely or partially, so that sometimes one adheres to it, and sometimes the other?

DOUBT X. When, according to the Rubrics, it is permissible to celebrate a solemn Mass on a feast day that must be transferred, is it also permissible to sing the Vesper service of the same feast with the unique prayer, without any other prayers being added for the obligation of reciting the canonical hours?

DOUBT XI. In the Diocese of Clodien, those who are about to enter into marriage are, by ancient custom, prevented from receiving the nuptial blessing during the solemn Masses, during the time when such celebrations are prohibited. After this time has passed, and if they were to omit these blessings now, it would almost cause scandal, or at least everyone would be amazed by this novelty. Therefore, it is humbly requested that the custom, which is already in force, may be maintained and continued.

Furthermore, the same Holy Congregation, after hearing the opinion in writing of another of the Masters of the Apostolic Ceremonies, considered it appropriate to answer the proposed doubts as follows:

To I and II: Negatively.

To III: Let a Decree be issued in Tuden on September 7, 1816, to XXII.

To IV: Regarding the first and second questions, in solemn Masses for a serious reason, and in those of a feast day that must be transferred according to the Rubrics, only the unique prayer should be said where the obligation of the conventual Mass does not exist; regarding the third ques-

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tion, the office prayer of the day and...

[*Latin ed. p. 543*]

[XVIII. 543] Other occurrences in private Masses are to be added, and also in the Mass with singing, if another Mass for the current feast has not been celebrated beforehand, unless otherwise stated, by a special indult. See Instruction Clementinae, V. Stetur.

[V. I.] In votive Masses of the Blessed Virgin Mary, as in this case, commemorations are to be made according to the rubrics, and the Creed is to be omitted.

[VII.] A decree was issued in Coimbra on April 14, 1753, concerning this matter.

[VIII.] The Sacred Congregation of Rites grants that, in this case, a single solemn Mass for the Requiem may be sung, unless a double of the first or second class, or a feast of precept, occurs.

[X.] One must follow the public clocks.

[X.] Affirmative, provided that those who are bound to observe the canonical hours recite privately the Vespers of the occurring office.

[XI.] Negative, and a decree was issued in Monte Pessulano on August 31, 1839, and in Limburg on June 24, 1853, regarding this matter. And so it was decided, granted, and declared on August 7, 1875, concerning those who are already performing, or who intend to perform, these things.

It is entirely impossible to revoke this privilege in vicarial churches to which it has already been granted, either in whole or in part; but to deny it to churches that are now requesting it would be detrimental to Christian piety. Since these churches themselves are located in the mountains and are not a little distant from the parish church, the faithful, rather than going to the parish church, choose to remain at home and attend these vicarial churches.

Since Your Eminence is in doubt as to what should be done in this case, and since Your Eminence believes that the Constitution *Seminario sacro* of Pope Clement XI, dated March 15, 1712, prohibits the celebration of the functions of Holy Week in churches that are not collegiate, parish, or curatial, and since these are not the types of churches that are being discussed, Your Eminence has requested of the same Sacred Congregation how Your Eminence should proceed, both with regard to the vicarial churches that have hitherto peacefully celebrated all or some of the functions of Holy Week, and especially with regard to those vicarial churches that may in the future, for very serious reasons, request the faculty to perform such functions.

GORITIEN.

Furthermore, the same Sacred Congregation, having heard the report of all matters submitted by the undersigned Secretary, and also having con-

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sidered the opinion of another of the Masters of the Sacred Ceremonies, decided to write to Your Eminence: "Your Eminence may, at Your discretion and prudence, grant to the aforementioned vicarial churches the faculty to perform the functions of Holy Week, as Your Eminence has explained to this Sacred Congregation that there are many vicarial churches in this Archdiocese, so-called because they are entirely dependent on some parish church, which does not celebrate the functions of Holy Week..."

[*Latin ed. p. 544*]

APPENDIX. 544. To the Most Holy Fathers, provided that these [liturgical actions] can be performed according to the prescriptions of the Roman Missal. If, however, there is a lack of sacred ministers in the churches themselves, Your Eminence can also grant those same churches the faculty of performing the functions of Holy Week, observing the form of the small Ritual, namely, the one published by order of Pope Benedict XIII in the year 1725 for rural parishes. Furthermore, the Sacred Congregation wished that it be made known to Your Eminence that the Constitution of Pope Clement XI, dated March 15, 1712, should be understood in such a way that, during those three days of Christ's death, only those Masses which are not conventual are prohibited. Moreover, it wished that Your Eminence be warned that the Ceremonial prescribed for the functions of Holy Week by Your Predecessor, Most Reverend Francisco Xaverio, on January 22, 1850, being entirely arbitrary, must be completely prohibited and abolished in this Archdiocese, as the same Sacred Congregation commands to be prohibited and abolished by Your Eminence. Rome, September 4, 1875. To the Most Illustrious and Reverend Lord, as a Brother Archbishop of Goritia. FROM ZACATECAS. The Most Reverend Lord Joseph Maria a Refugio Guerra, Bishop of Zacatecas, in the United States of North America, proposed the following doubt to the Congregation of Sacred Rites, namely: Must the chaplain who immediately assists the Bishop in the celebration of a private Mass also wear the stole? The aforementioned Sacred Congregation, with the reference of the undersigned Secretary, having heard the written opinion of another of the Masters of the Apostolic Ceremonies on the matter, responded in writing to the doubt: negatively, and let a decree be issued on the eleventh day of the month of February, in the year 1863. And thus it responded and commanded to be observed on September 4, 1875. MARIANOPOLITAN. The Most Reverend Lord Edward Fabri, Bishop of Gratianopolitan and Coadjutor with future succession to the Bishop of Marianopolitan, requested that the Congregation of Sacred Rites declare whether the Coadjutor Bishop, when the funeral rites are performed, can properly approach after Mass to grant absolution, even if he himself did not chant the Mass? The aforementioned Sacred Congregation, with the reference of the undersigned Secretary, having maturely and carefully considered the matter, responded in writing: In the case in question, the celebrant can

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grant absolution, according to the Decree issued on the thirteenth day of the month of August, in the year 1851. And thus it declared on September 4, 1875.

[*Latin ed. p. 545*]

545. The following encyclical letter of Pope Gregory XVI, entirely worthy of his great mind, is reprinted here (from the Bullarium of the Sacred Congregation for the Propagation of the Faith, Vol. VI), and we are entirely confident that it will be most useful to our readers. Although little memory of it may now remain, it is nonetheless read with great benefit; for it deals with a most serious matter, and it is so relevant to our times that it seems as if it were written to describe the present situation, and it even contains a condemnation of the new biblical societies that are flourishing today in this esteemed city. For this reason, it will also be advisable to consult the documents concerning these societies that have been issued by the Apostolic See; a collection of which we have already published among these Acts, with the approval of many, in Vol. IX, pages 489, 531, 534, 535, 537, 539, 544, 580, 591, 650.

ENCYCLICAL LETTER TO ALL PATRIARCHS, ETC., RECOMMENDING THE VIGILANT DEFENSE OF THE COMMON CAUSE OF THE CHURCH, AND ALSO CONCERNING THE FRUITS OF APOSTOLIC MISSIONS TO FOREIGN PEOPLES, THE SUPPORT OF THE SOCIETY FOR THE PROPAGATION OF THE FAITH, AND OF THE LEOPOLDINE SOCIETY AND OTHER PIOUS INSTITUTIONS.

GREGORY, POPE. Greetings and apostolic blessing.

You know well, Most Reverend Fathers, how grievously this most sorrowful time is afflicted by calamities from all sides, and how miserably the Catholic Church is afflicted, nor are you unaware of how the holy religion is attacked by the confluence of all kinds of errors, and how boldly the erring act, and with what cunning and with what deceptions heretics and unbelievers conspire to pervert the hearts and minds of the faithful. You know, in a word, that there is scarcely any kind of labor or effort that is not employed to undermine the firm foundation of the holy city, if it were possible to uproot it from its very foundations. Indeed, let us pass over the rest, but do we not, alas, see the most impudent enemies of the truth spreading far and wide, and do we not see them not only mocking religion, insulting the Church, and reviling Catholics with insults and abuse, but also invading cities and towns, establishing schools of error and impiety, and spreading the poison of their doctrines, even through Acts, Vol. XII, p. 443.

[*Latin ed. p. 546*]

546. We have seen how the recent natural sciences and inventions are used for a more subtle deception; indeed, they penetrate even the hum-

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ble dwellings of the poor, traverse the countryside, and insinuate themselves into the familiarity of the lowest classes of people, farmers and laborers. Thus, they leave nothing untried, but lure the common people, especially the youth, to their sects through corrupted vernacular books, through pernicious newspapers and other small publications, through cunning arguments, through feigned charity, and finally, through the distribution of money, and thus induce them to abandon the Catholic faith. We have indicated, V.V. and FF., things which are not only known to you, but of which you yourselves are witnesses; who, though grieved, and not silent for the sake of their pastoral office, are compelled to tolerate in your dioceses the aforementioned defenders and promoters of heresy and infidelity, who, sometimes creeping forward under the guise of sheep, but inwardly wolves, do not cease to harass and tear apart the flock. What more can be said? There is scarcely any region, even a barbarian one, in the entire world to which the most well-known societies of heretics and infidels do not send their agents, who, either through deceit or openly, with a united front and with a brazen face, wage war against the Catholic religion and its pastors and ministers, and prevent the faithful from entering the fold of the Church or from remaining within it. From this, it is easy to infer how greatly we, who are burdened with the care of the entire flock of Christ and with the solicitude for all the churches, are distressed, since we must render an account to the Divine Shepherd of all things. Therefore, we have considered it necessary to remind these matters to you, V.V. and FF., so that you may more earnestly consider how much it concerns the Church that all sacred prelates, with joined efforts and with all diligence, strive to restrain the attacks of the enemies of the religion, that their plots may be thwarted and their snares frustrated, and that the faithful may be forewarned against their cunning deceptions and be protected. We, as you know, have always endeavored to accomplish this in every possible way, and we will not cease to do so. Furthermore, so that we may not lack courage even in the midst of these difficulties, we must take care, V.V. and FF., never to be dismayed, as if these things could be overcome by our own strength, since our counsel and our strength are Christ, and without Him we can do nothing, but through Him we can do all things: for He strengthens those who preach the Gospel and administer the sacraments, and He says: "Be not afraid, for I am with you all the days, even unto the consummation of the age"; and again: "These things I have spoken to you, that in me you may have peace. In the world you will have tribulation; but have courage! I have overcome the world."

[*Latin ed. p. 547*]

ENCYCLICAL LETTER 547 "I have overcome the world." These assurances, being undoubtedly manifest, we must not allow ourselves to be discouraged by any scandal, lest we appear ungrateful to the God

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whose power is as much a help as His true promises (1). But who does not see, even in our own age, the fruits of the Divine promise, which have never failed and will never fail, to be most evident? Indeed, they clearly appear in the invincible strength of the Church amidst so many attacks by enemies, in the spread of the religion amidst so many disturbances and dangers, and in the consolation with which the Father of mercies and God of all consolation comforts us in all our tribulations. While, on the one hand, we must lament the losses that the Catholic religion has suffered and is suffering in some regions, on the other hand, we must rejoice in the numerous victories that are reported to have been achieved there, even amidst those difficulties, thanks to the steadfastness of Catholic pastors. And we rejoice greatly in the happy progress made, so that even those who are opposed may see the pressures and persecutions to which the Church is subjected, and that this may serve to confirm the faithful more and more in the Catholic religion. But speaking of apostolic missions, what cause for rejoicing do not the abundant fruits of these very missions and the progress of the faith in America, in the Indies, and in other lands, especially among the infidels, offer us? You know, Most Reverend Fathers, that in these times, a countless number of apostolic men are spreading abroad, with tireless zeal, who, not supported by wealth or by arms, but armed only with the shield of faith, and not fearing to engage in battle for the Lord against heresies and unbelief, with remarkable success; but also, inflamed by the fire of charity and undeterred by the hardships of travel or the severity of labor, they seek out those who are sitting in darkness and in the shadow of death, that they may bring them to the light and life of the Catholic religion. From this, they boldly venture into the forests and caves of barbarians, gradually softening them with Christian gentleness, instructing them in the true faith and true virtue, and finally, through the laver of regeneration, they deliver them from the slavery of the devil and reclaim them as sons of the adoption of God. We cannot, without tears, both lamenting the cruelty of the persecutors and the slaughter, and admiring the heroic constancy of the confessors of the faith, commemorate this glorious event (1). Thus, almost in the very same words, did St. Leo II write in his letter to Rusticus of Narbonne.

[*Latin ed. p. 548*]

548 The Encyclical speaks of the deeds of recent martyrs in the most remote regions of the East, whose praises we celebrated not long ago in a Consistorial address. The regions of Tonkin and Cochinchina still reek with the blood of many holy priests and faithful laymen, who, renewing the examples of Christian martyrs, especially those of former times, bravely faced death with unwavering spirit, seeking the most beautiful death for Christ, as a testimony to the faith. Therefore, what greater triumph for the Church and religion is there; what greater confusion for those who

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persecute it, to see, even in these days, the divine promises of perpetual protection and help fulfilled, so that, as the words of St. Leo say, no cruelty can destroy the religion founded on the sacrament of the Cross of Christ? (1) Thus far, these things are consoling, venerable Fathers, and glorious for the Catholic religion, but other things are not lacking, which comfort the Church in such great tribulations: namely, pious institutions which contribute to the good of religion and Christian society, and some of which are a help and support to the very apostolic missions themselves. Indeed, who, considering the omnipotent providence of God, who constantly protects and assists his Church, fulfilling his promises, and who, according to the needs of the times and places, and other circumstances, raises up new societies within it, which, under the authority of the same Church, with united effort, contribute in their own way to works of charity, to the instruction of the faithful, and to the spread of the faith, would not rejoice? – It is a pleasing sight, among others, for the Catholic world, and even for astonished non-Catholics, to see so many and so widely spread associations of pious women, associated under the rules of St. Vincent de Paul or other approved institutions, conspicuous for the splendor of Christian virtues, who devote themselves wholeheartedly, either to rescuing women from the path of perdition, or to educating girls in solid piety and in the proper duties of their condition, or to helping those in need with every means, without being deterred by either the natural weakness of their sex, or by the fear of any danger. Nor are we, and all good men, filled with less joy by those other groups of the faithful, who are constantly forming in many, especially more enlightened, countries, whose purpose and aim is to oppose, with purity of doctrine, the errors exposed in perverted books or other works, and to oppose the insults and accusations against Christians with gentleness and charity. – Finally, what is to be said, if not with great praise, of that famous society, which not only exists in Catholic regions, but also in the lands of non-Catholics and infidels, and is constantly growing? (1) *In natali Apostolorum Petri et Pauli, Serm. 82, al. 80.*

[*Latin ed. p. 549*]

ENCYCLICAL LETTER 549, which opens a simple and accessible path for all the faithful, regardless of their condition, so that they may merit well from the apostolic missions and participate in the spiritual benefits thereof, and themselves become participants? You now understand that I am speaking of the well-known Society under the title of "Propagation of the Faith." Having shared with you the joys and sorrows with which we are filled, and the consolations with which we are sustained, by the triumphs of the Catholic religion, it now remains for us to communicate to you the concern that urges us for the greater prosperity of such societies, which merit so well for the religion. Therefore, we earnestly exhort you in the Lord to strive to foster, protect, and increase them within the boundaries of your

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dioceses. Above all, we commend to you the aforementioned Society of the Propagation of the Faith, which, since the year 1822, was first established in the ancient and noble city of Lyons, and has since spread with remarkable speed and prosperity, far and wide. We also commend, with no less favorable consideration, the other similar Societies, which, although founded in Vienna or elsewhere, and distinguished by different names, nevertheless cooperate with equal zeal in the same work of the Propagation of the Faith, supported by the favor of most religious Catholic princes. It is a truly great and most holy work, which is sustained, increased, and strengthened by the modest offerings and daily prayers poured out by each member to God; and which, in supporting apostolic workers, in carrying out works of Christian charity towards the newly converted, and in freeing the faithful from the onslaught of persecution, we consider worthy of the highest admiration and love. Nor should it be considered that so much benefit and utility has recently come to the Church without a special counsel of Divine Providence. For, while the machinations of the all-powerful enemy of hell assail the beloved bride of Christ, nothing could be more opportune than that the faithful, inflamed with a desire to spread the Catholic truth, should, with united efforts, strive to promote all that is conducive to Christ. Therefore, we, in our supreme office, although unworthy, spare no opportunity to follow in the footsteps of our predecessors, and to most clearly testify our will in this most excellent work, and to encourage the faithful with suitable incentives to charity in this regard. And you, Venerable Fathers, who have been called to share in our concern, diligently strive that this work may daily receive greater and greater growth within the flock entrusted to you. Sound the trumpet in Zion, and with paternal admonitions and persuasions, encourage those who have not yet joined this most pious society.

[*Latin ed. p. 550*]

550 The Encyclical Letter which We have published, let those who are able join themselves to it willingly; and those who have already joined themselves to it, let them persevere in their purpose. Indeed, this is a time, "when the devil rages throughout the world, and the Christian army must take refuge" (1), and therefore, this is a time for all to strive diligently to ensure that the faithful, those priests who are weeping, praying, and laboring for the faith, join themselves to this holy alliance. But We place our firm hope in the fact that God, who does not cease to sustain His Church with the power of His right hand in this great religious conflict and in this harsh and prolonged struggle with the enemies, will be delighted by the constancy, charity, and devotion of the faithful, and, moved by the multiplied prayers of pastors and sheep, and by pious works, He will mercifully grant them the longed-for tranquility and peace. In the meantime, We impart to you, Very Reverend Fathers, and to all clerics and lay faithful entrusted to your care, Our apostolic blessing. Given in Rome, near St. Mary

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Major, on the 18th of September, in the year of Our Lord 1840, in the tenth year of Our pontificate. GREGORY OBTUS, POPE. (1) From the words of St. Leo M. Serai, 49, al. 48.

[*Latin ed. p. 551*]

551 FROM THE HOLY CONGREGATION OF THE COUNCIL OF JURISPRUDENCE AND ECCLESIASTICAL AFFAIRS, on February 1st and April 26th, 1879. SUMMARY OF THE MATTER. The parish priest, Joseph, having heard the wishes of Cornelius M., desired that, for the greater glory of God and the increase of divine worship, a community of priests be established in his parish church, dedicated to Saint Mary of the Snows, in the year 1644, who, according to the custom of cathedrals and collegiate churches, would alternate daily in serving the choir. To obtain this, and to ensure the proper support of the community, he assigned, for themselves and their successors, all the fruits, revenues, and proceeds of his church and his benefice to the community, reserving only a suitable annual sum for the parish priest, amounting to forty-five ounces. Subsequently, rules regarding the community were established, agreed upon by the parish priest and by the members of the community elected by him. Furthermore, in these rules concerning the rights and privileges of the parish priest, under Article Second, it was stipulated that the parish priest should have precedence in all functions, and in his absence, the hebdomadarius [a priest who serves the choir weekly]. It was also reserved for the parish priest, for the time being, the right to choose chaplains, who, however, must be approved by the Ordinary. Therefore, the foundation of this community, together with the aforementioned articles, was submitted for the confirmation of the Ordinary of that time, who, with his own authority, ratified everything, issuing a decree on April 15th, 1644, with the following reservation: "Reserving to ourselves and our successors the right..."

[*Latin ed. p. 552*]

552 OF RIGHTS AND PRIVILEGES: "to visit, to examine accounts, to add to, and to change, and all of this pertains to the pastoral office concerning the visitation of priests, clerics, churches, and pious places." Later, in the year 1801, at the request of the Communists, the Ordinary granted permission that, instead of the black color previously used in Almutia, they might use the color violet. Matters during this period seem to have proceeded without contention. However, in the year 1841, when civil authority decreed that an annual sum in numbered money should be paid to the Municipality of M. in place of tithes, and the matter had already been settled between the Parish Priest and the Syndic, an older Communist opposed this, claiming that these were goods reserved for the Commune. Therefore, a settlement was reached between the older Parish Priest and the Syndic, and on August 14, 1842, it was stipulated by a public instru-

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ment that an annual sum of two hundred guilders should be paid to the older Communist in place of tithes. Moreover, when the Bride of Christ, under hostile domination, was established, as God permitted, in the year 1860, the Communists seized the opportunity of the Parish being vacant to attempt to add to their power, demanding from the Economus the right to bless corpses, and subsequently to perform all functions on Thursdays and Fridays. However, these attempts proved futile, since the Curia decreed that all these things should be carried out by the Economus. Then the Communists appealed to the Apostolic See, so that the matter might be resolved, raising various doubtful points. As is customary, the requests of the Communists were, on June 23, 1877, referred to the Bishop for information and a decision, after hearing the Parish Priest in writing. Following this, the Reverend Prelate, on August 21, 1877, issued a letter in which, after noting that the Parish was vacant, he affirmed that he was entirely in favor of defending the rights of the Parish Priest and the Economus concerning the disputed articles. Indeed, he notes that the aforementioned articles of the foundation were scarcely, or not at all, observed.

[*Latin ed. p. 553*]

RIGHTS AND PRIVILEGES 553. Disputation in the Synagogue. The defender of the Communists, in order to pave the way for resolving the doubts, attempts to demonstrate that the Church of Saint Mary Major is a true collegiate church, and therefore, the Communists themselves should form a college. However, he seeks to prove this based on certain indications, which, as the Canonists teach, are sufficient and more than sufficient to demonstrate the collegiality of a church, even though it is not established that the foundation and privilege of the Holy See in Caputaquen were present. In 1620, Barbos, in *Liber 2. Iuris Eccl. cap. 6. n. 14*, and *De canon, et Dignit. cap. 2. n. 12*, relates this. Furthermore, he argues that in this particular case, more signs of collegiality are present. Having established this foundation, and proceeding to examine each individual doubt, he maintains that the parish priest cannot appoint a priest of his choosing to perform the sacred functions, whether considering the law of the foundation or custom, both of which favor the hebdomadarius, who should be appointed when the parish priest is prevented from performing those same functions. Therefore, it is not surprising that when this question was raised in 1869, the Episcopal Curia, adhering to the law of the foundation, favored the hebdomadarius, and that the current Ordinary, by a decree dated September 12, 1876, wished to reserve the parochial functions for the parish priest, and that the hebdomadarius should substitute in his absence. And this is indeed just: for it is stated that the exercise of these functions belongs to the parish priest to the extent that he is the head of the college, in whose place the hebdomadarius substitutes. However, it is established by law that the substitute succeeds

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to all the rights and privileges of the one who is substituted. Therefore, considering the law of the foundation, the parish priest does not have the right to appoint another priest, other than the hebdomadarius, to perform the sacred functions. Nor does it come to a different conclusion when considering custom, which is considered the best interpreter of each disposition, and which removes all doubt, favoring the hebdomadarius. RIGHTS OF THE COMMUNISTS. Proceeding to the second doubt, the speaker maintains that the oeconomus is entitled to those things which properly belong to the parish priest, as if...

[*Latin ed. p. 554*]

Regarding the matter of rights and privileges, the obligations are not, and certainly not, rights or privileges. However, the speaker attempts to establish this based on the previously cited article of foundation, and the current decree of the Ordinary, from which it is clear that in the absence of a parish priest, the hebdomadarius [chaplain] succeeds to all the sacred functions; and also based on the custom that is attested to by the deacons, who, as if with one voice, testify that the hebdomadarius, while in the service of the Church, has performed all the parochial, ecclesiastical, and processional functions.

However, even if, in an absurd hypothesis, it were to be decided that the oeconomus [vicar] succeeds to all the rights and privileges of the deceased parish priest, the speaker continues, it does not follow that the right to wear the stole and to walk in a more prominent position, whether in funerals or in solemn processions, belongs to the hebdomadarius and not to the oeconomus.

Firstly, because the hebdomadarius, being a beneficiary, has the right to precede others in his own church who are not beneficiaries, just as the oeconomus does; especially when it comes to wearing the stole, which is merely a priestly symbol, and does not confer jurisdiction or privilege. (Antonell. de regim. Eccl. Ep. lib. 3. c. 18. n. 21.)

Secondly, because the custom favors the hebdomadarius, as attested to by the deacons mentioned above. But in matters of precedence, local custom or quasi-possession is considered: for he who is found to be in such a position, whether in public or private processions, must, without any qualification, precede, according to Constitutiones Gregorianae XIII, as Antonell. states in the aforementioned passage, chapter 18, number 6.

Therefore, since the custom has been established for the hebdomadarius, it must be concluded, even in this absurd hypothesis, that the oeconomus succeeds to the rights and privileges of the parish priest, but that, even in public processions and in the association of corpses [funerals], the right to wear the stole and to walk in a more prominent position belongs to the hebdomadarius and not to the parish priest.

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Furthermore, the speaker argues that the Bishop cannot arbitrarily change the statutes of the deacons, as is proposed in the fourth question. These statutes are strengthened by the observance of more than two centuries, which is itself stronger than a hundred years, and this...

[*Latin ed. p. 555*]

555. The rights and privileges are so effective "that they supply the place of an expressly granted Apostolic privilege," with the only difference being the distinction between what is tacit and what is expressly stated. *Rota Cor.*, Ansaldo, decree 546, no. 11. Regarding the fifth question, it is contended that the sum of money which the Community pays in lieu of tithes belongs to the Community, according to the very law of its foundation. This is indeed true, so that in the year 1842, when the royal decree ordered that a certain sum of money be paid by the parish priest to the municipality in lieu of tithes, it was agreed, for the good and equitable arrangement between the parish priest and the municipal council, that the Community should intervene to determine the amount of money to be collected in lieu of tithes. At that time, the advocate continues, it was recognized that the right to collect tithes belonged to the Community, while it was agreed that the sum of two hundred ducats should be paid first by the members of the Community. Regarding the sixth and final question, it is stated that the members of the Community are in peaceful possession of the right to collect the tithe, without anyone objecting, until the Bishop makes a claim, and therefore, they are exempt from the burden of proving the privilege; especially since they rely on the unforgettable custom which holds that anyone is presumed to have the better title, unless the contrary is proven, even with the approval of the Apostolic See. However, in the absurd hypothesis that said privilege were not valid in law, it is considered appropriate for the Apostolic concession to intervene, so that, without decrees of deprivation, scandals and disturbances do not arise among the people, to the detriment and disgrace of the ecclesiastical bodies.

DEFENSE OF THE BISHOP AND THE ECONOMUS. On the other hand, it should be noted that, although the collegiality of any Church cannot be denied by signs, conjectures, and indications that clearly demonstrate collegiality, as Innocent IV states in chapter 1, no. 1, regarding the letter of Patriarch Lotter; as Barbos states in *De Iur. Eccles.*, book 2, chapter 6, no. 5; and as Peter of Aquila states in *Ad Constit. 7 Innocent. 4*, section 2, no. 16, volume 8, nevertheless, in this case, it does not seem possible to resort to such signs, since the original charter of the foundation is lacking. For conjectures...

[*Latin ed. p. 556*]

556. The matter of rights and, indeed, of a pre-eminent authority is found in uncertain circumstances (L. Continuus, 137, concerning obligations).

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Therefore, with the foundation clearly established, and the erection of the Collegiate Church expressly stated, it is scarcely comprehensible how the collegiality of this Church could be asserted by the opposing party, given the aforementioned signs, which are almost universally common to established Churches, as numerous authoritative sources demonstrate, as the Sacred Congregation of Holy Church and Regular Canons affirms in *Sess. Chor.* and *Miss. Convent.*, 40, December 4785, §. Plurima et seq. Moreover, because the authority of the Bishop is believed to have caused this change in the year 1644, when, indeed, through resolutions of the Most Holy Congregations, namely in *Tropeien*, July 22, 4583; *Messanen*, June 4, 1602; *Aurien*, May 23, 1614; and *S. IL O.*, in the year 1623, as noted by "Riganti in *Reg. 4. Cancell.*, §. 2, n. 95, Piton, *Discept. Eccl.*, 116, n. 30, vol. 4," it had already been declared that the erection of Collegiate Churches was reserved only to the Holy See. Therefore, since the collegiality of the Church, which is the subject of discussion, does not seem to be supported by any custom, a matter to which we shall return later, because it derives all its force from the approval of the statutes by the Bishop, who cannot derogate from common law (Sacred Congregation in *Ferentina Cappellaniae*, March 1, 1834, §. De legis), this flawed foundation cannot be maintained in any way, since it is well known that what is flawed from the beginning cannot be strengthened by the passage of time. With these premises, addressing the individual doubts, the Bishop holds that the right belongs to the Parish Priest to appoint a priest he deems suitable, even if he is not a Communist, to perform the sacred functions. And he begins by stating that it is undoubtedly the law that the Parish Priest has jurisdiction over all ecclesiastical functions within his own Church, and that this pertains to him, notwithstanding any custom, as defined by the Most Holy Roman Church in *Verulana*, March 2, 1641, apud Gardellini, n. 1152. He does not contend that the resolutions issued by the Holy Congregations for Collegiate Churches can be contradicted. Indeed, the situation is different in the case of Parishes: in those, the Apostolic authority demands that the status of the Church remain unchanged, so that the Chapter is considered the Rector and the "Sponsus" of the Church (*Pyr. Cor. Pran. Benef.*, lib. 2, cap. 2, n. 24), and to which...

[*Latin ed. p. 557*]

RIGHTS AND PREEMINENCES 557. The habitual care of souls, to be exercised by a designated person, resides therein (Pignat. tom. 9. consult. 430, n. 3). In these matters, the Parish Priest remains, as the sole Spouse of the Church, both habitually and actually exercising the care of souls. Since it pertains to the Parish Priest to perform all ecclesiastical functions within his own parish, notwithstanding any custom, and since this right has been reserved even to him in the collation of the benefice, it cannot be

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conceived how this could be restricted to the point that he would not have the power to delegate another priest for the same purpose. Indeed, what can the second article of the Constitutions, or any custom adduced to the contrary, accomplish? Not the article of the Constitutions, because it could only exercise its force to the detriment of the one renouncing [the right], but not to the detriment of those succeeding by their own right. Not a custom, because 1. it has not been proven, since it would have had to be proven that the hebdomadarius [a priest serving a weekly mass] exercised the functions as such; as it would have had to be justified according to the decrees of the Sacred Congregation in the matter of Parochial Rights, August 25, 4877, §. Moreover, and indeed for a period of never less than 40 years, as stated after Text. in Cap. Irrefragabili de offic, ordin, Rota cor. Mohnes decis. 962, n. 47, and decis. 4346, n. 49; furthermore 2. it must be considered as violating the parochial rights, as an abuse and corruption, as has been widely taught by the Sacred Congregation, even if it were a custom of forty or a hundred years, as can be seen in Baren. Iurium Parochialium, August 28, 4756, Nullius Sublacen. Iurium Parochia!, August 29, 4725, Firmana Iurium, June 30, 4877, §. Urget, Oritana Iurium Parochialium, September 22, 4877, §. Incassum. Regarding the second doubt, the Ordinary holds that he succeeds to the rights and preeminences of the deceased Parish Priest, since he, by right, has ordinary jurisdiction and exercises all other parochial functions, as the Parish Priest for whom he acts, and to whom he is substituted in care and office. However, the fundamental principle of law lies prostrate, that he who is substituted by right succeeds in the place of him to whom he is substituted, both in advantages and in all other respects.

[*Latin ed. p. 558*]

558 The rights and privileges pertaining to the parish are used by the Economus, as stated in L. un. c. De Offic. Vicar., and by the same law and privilege, as confirmed by the Rota decis. 252, no. 7, part 5, recent. Gratian. Discep. 298, no. 4. Therefore, when the Economus succeeds to the rights and possessions of the parish, it cannot be supposed that only the burdens are left to him, while, conversely, the rights and privileges of the hebdomadarius are to be granted to him weekly. After these considerations, I deem it necessary to address the third doubt. It is established in law that, in such controversies, the greater or lesser number of persons is not considered, but rather the exercise of an act and the wearing of the sacred vestments, in order to demonstrate precedence. Therefore, if it pertains to the Economus to have the right to perform all functions, and therefore also to hear petitions, if he himself assumes the role of the parish priest, it is clear that what belongs to him is to wear the stole and to proceed in a more dignified manner. Especially in the association of the clergy, the wearing of the stole is a jurisdictional sign, as is deduced from the authority of Scarfant. in p. 3, addit. 89, no. 80; and the hebdomadarius remains without

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any jurisdiction. As for the fourth doubt, it seems quite sufficient to read the approval of the ordinances that was affixed by the Bishop, where it is stated in clear terms: "Reserving to ourselves, and to our successors, the right to visit, to examine the accounts, to give and change, and all that which pertains to the pastoral office, etc." These words are so clear that they require no interpretation, in order to grant the Bishop the right to regulate the statutes of the hebdomadarius at any time; interpretation is necessary only when the word is doubtful, as stated in L., and not when the words are clear in themselves. This must be held even more strongly, because the hebdomadarii themselves did not object, when, during the visitation of the year 1876, the Bishop, noting the precariousness of the revenues, reduced the service of the choir. It cannot be said that the Bishop lost the right to change the statutes, which was reserved to him by the law of foundation, because his predecessors had not used this faculty, because we are dealing with acts and faculties, in which prescription does not run, unless there is a prior prohibition and legitimate acquiescence, as Portius de Manui, observ. states.

[*Latin ed. p. 559*]

RIGHTS AND PRIVILEGES §59, 53, n. 4, and 28; Pignatelli, *Consult.* 443, n. 34, at the end, vol. 9; Rota decisions, 253, n. 8, part 3, recent. The Bishop insists that the sum of two hundred ducats, which is collected from the Municipality in place of tithes, must be given to the parish priest, because, according to the very foundation documents, tithes were reserved for the benefit of the parish priest. Therefore, after carefully considering the matter, the civil authority, in demanding the payment of money in place of tithes, decided that a suitable sum of two hundred ducats should be paid by the municipality to the parish priest in place of tithes, and that 100 and 16 unciae should be given to the mayor for the use of the vicars and for the maintenance of the church. Addressing the matter, the Most Reverend Prelate reminds us that on June 19, 1764, the municipal authorities obtained from the Bishop, by ordinary authority, the permission to wear a surplice and a black cassock, which were later changed to a violet color by Episcopal authority, as decreed during the Visitation on September 17, 1801. Furthermore, the Bishops have absolutely no authority in this matter concerning the habits and insignia worn in the choir by the canons, nor concerning their colors, since everything is reserved to the Pope, as Scarfant reports in *ad Ceccoper.*, *lucubr.*, Canon., book 4, title 7, n. 3; Rice, decisions, 332, ii, §. However, Pit. *discept. Eccl.* 446, n. 47, vol. 4, states that "this habit is not to be worn unless there is a special Apostolic privilege, especially if it is contrary to the title of the erection of the church, which has not granted such a habit to the Collegiate Church, as is the case in Gerunden," as seen in the documents concerning the surplices of January 43, 4696, and in the records concerning the insignia of February 4, 4705. "Furthermore, custom

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does not suffice, which is brought forward in opposition, for antiquity and long custom do not grant a privilege that cannot be possessed by common right," as Pignatelli states in vol. 6, n. 39, n. 8, and which can only be obtained by the concession of the Prince. With these points considered on both sides, the following conclusions were reached.

[*Latin ed. p. 560*]

560 "Concerning Rights and Privileges. I. Does the parish priest have the right to appoint an altar server, besides the hebdomadarius and communicant, to perform sacred functions in the case? II. If a parish is vacant, does the designated administrator, or rather, the hebdomadarius, succeed to the rights and privileges of the deceased parish priest in the case? And to the extent that the answer is affirmative regarding the first part, it is negative regarding the second. III. In funerals and solemn processions with the participation of communicants, is it permissible for the administrator, even if elected outside the communicants, or rather, for the hebdomadarius, to proceed with the stole in a more distinguished place in the case? IV. Does the bishop have the right to modify at any time the statutes of the communicant community in the case? V. To whose benefit does the sum of money paid by the community in place of tithes accrue in the case? VI. Do the communicants have the right to present an alms for the altar in the case? And to the extent that the answer is negative. VII. Is there a place for granting the aforementioned privileges based on a prior petition from the communicants in the case? RESOLUTION. The Sacred Congregation, on February 15, 1879, responded as follows: To I. Negative, and moreover. To II. Affirmative regarding the first part, negative regarding the second, concerning only parochial rights and functions. To III. It is to be proposed again. To IV. In accidental matters, affirmative; in substantial matters, negative. To V. Affirmative, to the benefit of the community, but so that a supplement should be taken from the same sum for the benefit of the parish priest, insofar as the bishop judges that his current income is no longer sufficient.

[*Latin ed. p. 561*]

REGARDING RIGHTS AND PRIVILEGES 561 Concerning points VI and VII. Nothing should be altered, having been stated with the Most Holy Congregation on April 26, 1879, in the third question again proposed, the response was: Affirmative to the first part, negative to the second, only in parochial funerals and processions. FROM WHICH WE GATHER THE FOLLOWING: I. That parish churches, or recipient churches, differ from collegiate churches in many respects, and especially concerning the care of souls; for in collegiate churches, where Curates are established by Apostolic authority, the care of souls belongs to the Chapter, exercised by a designated person, whereas in recipient churches, the care of souls, both habitual and actual, remains with the same parish priest (1). II.

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When the original charter of the institution of a church still exists and is open to all, no one should seem to doubt the nature of that same church, nor is it permissible to resort to indications and conjectures, but rather, what reason and law indicate should be used as remedies in uncertain cases, least of all when the matter is clearly known. III. That a church is not collegiate, but recipient, can be gathered both from the charter of foundation, which everyone is permitted to examine, and from the fact that the first change of a parochial church was perfected only by the authority of the Ordinary; whereas, for the erection of collegiate churches, the approval of the Apostolic See is required (2). IV. Since a legal substitute succeeds in the place of the one to whom he is substituted, therefore, the economist succeeds the parish priest in all rights and privileges, concerning the care of souls and all parochial functions. (1) Pignatelli, volume 9, consultation 130, concerning the elevation to collegiality. The opposite is held by n. 3, which assigns the reason for this difference, according to the opinion and practice of the Sacred Congregation; for it says: "For it is rightly understood that the erection of collegiate churches is always done by the Pope in churches where priests are ordained; and in this sense, the Sacred Congregation has responded on several occasions, not making a college, but rather, in collegiate churches, the texts are not present." Among other citations, the following may be cited: Cardinal Petrucci, Rem. Can., September 1691; in the proposed question: "Whether the erection of a collegiate church made by a Bishop in the act of visitation of the churches of the town of Antonius, of Saint Philip of Argyru, would be valid?" The response was: that even Bishops could, by their authority, erect a simple church into a collegiate status for their own church. Tora. XII, fase. 36 It. Negative. Therefore, it is now held that this only pertains.

[*Latin ed. p. 562*]

562. RIGHTS AND PRIVILEGES. V. Therefore, even at funerals and parochial processions, it pertains to the Parish Economus to walk in a more distinguished place, wearing a stole (1). VI. Ordinaries possess the faculty, at least in accidental matters, to modify statutes that have been confirmed only by the Bishop; although their predecessors may not have used such a faculty; because the force of a faculty does not run contrary to a prescription, unless there is a preceding prohibition and legitimate acquiescence. VII. The granting of permission for canons to wear insignia and vestments, and their corresponding colors, in the choir, is reserved to the Apostolic See, and no Ordinary of the place can exercise authority over these matters. VIII. By a benevolent decree of the Apostolic See, it has been granted that nothing new be introduced regarding insignia, even though they may have been granted solely by the authority of the Bishop. (1) See *Recole*, Vol. VIII, page 129, to further illustrate the jurisdiction of the Parish Economus, especially when the parish is vacant. This jurisdiction,

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which the Curate Economus fully exercises, if he is not an Ordinary Curate, is given to him, namely, the jurisdiction, while the cure is vacant, and is, as it were, ordinary, until revoked by the Bishop. Indeed, he fully performs the duties and cares of the parish, or in matters pertaining to the external forum of conscience. For there is a doubtful proposition: "Does the Curate Economus, when the parish is vacant, appointed by the Bishop, have the power to delegate to another?" It is clear that, according to this decision, the Economus, according to this decision, can delegate jurisdiction, so that another, acting as his deputy and in his name, can perform all the duties of the parish. Hence, it becomes even more evident that the Economus possesses the same rights and privileges that belong to the parish priest, both in his functions and in parochial processions. D.U.S.

[*Latin ed. p. 563*]

§63. CONCERNING REINTEGRATION INTO THE PARISH. June 21, 1879. SUMMARY OF EVENTS. Certain inhabitants of the place F., along with the Syndic of the Community and the Sub-Prefect of the district, appeared before the Bishop, demanding that the Parish Priest C. be removed, because the harshness of his disposition, and his manner of acting, had aroused the aversion of the people to whom he had been entrusted. The Bishop, as was fitting, diligently sought, with solicitude and prudence, to bring the Parish Priest back to the path of good and charity, through exhortations and reprimands. However, these efforts proved fruitless, and on November 13th, the following decree was issued: "By these present letters, we remove you from the office of Parish Priest, and we command you to leave the Parish within eight days from the communication of this decree, and we forbid you from all parochial, or public, or private offices, until that the circumstances shall have improved, and it shall seem to Us that you are to be restored to your office in the Lord. During this temporary removal, it will be Our duty to provide for the Parish through a suitable administrator who will take your place, and to whom we will assign a proper portion of the income from the benefice. All of these things, we decree, shall take effect, under penalty of suspension, which will be incurred by your actions. Furthermore, by another decree of January 1, 1874, the Ordinary appointed the spiritual director of the parish and administrator of the parochial benefice, the priest John. The royal treasury seized administration of the assets, after which the Bishop appointed a spiritual economist, considering the Parish to be vacant. This Ordinary passed away, and the Parish Priest remained at..."

[*Latin ed. p. 564*]

564 For the restoration of the parish, a successor was appointed, so that he might restore the parish: although, after a time, he relinquished the parish rights, he nevertheless refused to return to the parish, due to the

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people's aversion which still persisted. However, despite this aversion, and also due to a decision of the episcopal curia, the parish priest C. appealed to the Sacred Congregation for the Clergy, complaining of the deprivation (1) and the grave injury inflicted upon him by the deceased bishop, and requesting, through a decree of 1873, his restoration to the parish. Therefore, the bishop, questioned by the Sacred Congregation for the Clergy regarding this matter, confirmed what had been reported, and added that he had somewhat yielded to the desires and promises of the parish priest, especially with the intention that the judgment of the royal economist should cease to hold sway over the parish property, which, in truth, is not permissible. Nevertheless, the long-standing aversion of the people prevented the parish priest from returning to the parish. Then, the bishop attempted to persuade the parish priest to become an economist, who would administer the parish in his name! However, this proposal did not please the parish priest, and the matter was brought before a plenary council. THE RIGHTS OF THE PARISH PRIEST. It is easily understood that a decree of removal or suspension from the office of parish priest suffers from a nullity. For, parish priests, by law, possess immovability, and neither a temporary suspension nor a total deprivation is valid unless it is preceded by three, or at least one, warnings that are equivalent to three. Cap. Sacro 48 de Sent. Excomm. Cap. Romana, Cap. Statutum eod. in tit. 6. The Sacred Congregation for the Clergy indicates that these forms, as essential, must be scrupulously observed, as it stated individually in the decree Severini of April 4, 1878, and in the decree Piacentina concerning the Restoration and Rehabilitation to the Parish. (1) "When the form of judgment protects your state, your clergy, and your jurisdiction, the removal of a parish priest from a parish without a manifest cause is considered equivalent to deprivation. For Alexander III, in cap. 7, de restitutione spoliatum, states: 'Having consulted with us concerning your paternal provision, we have learned that the cleric Renaldo has been deprived of the aforementioned church without judgment, and without the revenues derived from it being restored to him, and we command you to restore the aforementioned church and its revenues to the aforementioned cleric, and to allow him to possess it in peace...' "

[*Latin ed. p. 565*]

REINTEGRATION INTO THE PARISH. June 14, 1846. In the case of a third admonition, neither one for three, no decree of removal preceded; therefore, it must be said that the decree was never issued, due to a disregard for canonical form. This is further confirmed by the fact that the Bishop, by his own authority, ordered the pastor to be indefinitely absent from his residence; while Bishops are only permitted to grant pastors permission to be absent from the parish for three months (Reiffent, *De Retract. Paroch.*, book 3, title 4, paragraph 77. Fagiian, *in Cap. relat.*, paragraph 21; Barbos, part 1, *De Offic. Paroch.*, paragraph 58). Furthermore, the de-

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cree is flawed in that the Bishop reserved the right to appoint an economist, who was to be chosen by the pastor and approved by the Bishop, according to the resolution of the Sacred Congregation in Rome, on January 10, 1735. It must also be noted that there was no aversion of the people; for, with the exception of a few, including the Syndic and the Sub-Prefect of the province, the other faithful did not even murmur against the pastor. Moreover, it is difficult to imagine that the faithful ministers of the Church would suffer persecution for the sake of justice at this time. In truth, even the Episcopal Curia was forced to decree that, although you do not appear to be guilty of all the faults attributed to you, the pastor must be removed. And the Sub-Prefect only lamented that the pastor had publicly preached that a usurper had come to seize the goods of the Church and to destroy the religion, and that the Church would lack peace and would no longer have followers. However, the pastor denied this, and the accusation was not at all proven. Even if there were an aversion of the people, the decree could not be sustained, especially since it was issued indefinitely. For, as the Doctors hold that a pastor cannot be removed except for bad morals, so too, even in the case of an aversion of the people, it is held that an indefinite suspension of the pastor does not constitute a removal. Otherwise, one would have to wait until the pastor died, which would be the same as deprivation. There is not even a trace of bad morals on the part of the pastor in the records; indeed, the Bishop himself said that the unfortunate pastor did not lack certain good qualities. If the hatred of the people still persists, and reintegration into...

[*Latin ed. p. 566*]

566. RESTORATION TO THE PARISH. Although a parish may not be suppressed, a suitable pension should nevertheless be assigned, or, if the former benefit was greater, provision should be made from another source; as Innocentius states in Cap. Veniens de r enunciat, and in Cap. 1-n. 8 de elect. with others, according to Bellett's discussions; Clerk, part. 1 § 15 n. 19. This doctrine is confirmed by the Sacred Congregation of the Council in Herbipolis, December 22, 1860; in which, although a grave aversion of the parishioners and a culpable neglect of the dying were alleged, the Congregation nevertheless ordered that a pastor be appointed from another benefice. RIGHTS OF THE BISHOP. However, if the documents presented by the Curia are examined, it will become clear that the pastor was no longer able to attend to the care of souls. Hence, the inhabitants complained in the recourse presented to the Ordinary, that his ministry had been rendered futile and useless, and that the faithful were greatly distressed by the celebration of the divine rites performed by one who showed himself to have little or no faith. Furthermore, the Syndic of that municipality, foreseeing from the pastor's manner of acting, scandals and disputes likely to arise, wrote to the Ordinary to request the removal of the

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pastor. The Subprefect of the province also advised the Bishop to remove the pastor, considering the aversion of the people, in order to avoid further disturbances and disputes. The Vicarius Foraneus reported that the parishioners and the pastor were hostile to each other, and that all kinds of quarrels and injuries were fostered between them. The Church, he said, is deserted, and no alms are given any longer; the altars lack lights, and there is no lamp for the Most Holy Sacrament. Therefore, the Ordinary, compelled by necessity, had to ensure that an economist be placed in the parish, and the pastor was to depart, until, when affairs had improved, it would be seen to be fitting to reinstate him in office. Indeed, since the salvation of souls is the supreme law for the Church, and all its cares and thoughts are directed towards this end, it is not new or unusual that coadjutors and vicars should be appointed in a parish, whenever the proper pastor, through grave illness, is unable to work for the good of souls, according to the Council of Trent, Session 21, chapter 6, on reform. Examples of this are the resolutions of the Sacred Congregation of the Council in Regien, 1573, dub. 2; Militen, October 15, 1644; Aleñen, July 30, 1757. Therefore, when...

[*Latin ed. p. 567*]

CONCERNING THE RESTORATION OF PEACE IN THE PARISH! It seemed that the parish priest was no longer able to properly care for the souls in his parish, and since it is not contrary to the law for a parish priest to be temporarily removed, with a suitable vicar appointed in the meantime to care for the souls, a decree from the Bishop appeared necessary. And this was all the more so because, through his own manner of acting, the parish priest had aroused the hatred of the people. Concerning him, we heard the following testimony from a parishioner: "He is of such a character that he seems to be hardened by adversity, and he diligently seeks out troubles, if they are lacking. He is shrewd, unyielding in defending his own rights, ignorant of the spirit of sacrifice, and utterly devoid of prudence; thus, his rights are often turned against him to his detriment." And the townspeople complained in their petition about the parish priest's indifference towards religion, about heretical propositions, about the arbitrary omission and contempt of sacred functions, about the uncleanness and neglect of the church furnishings. They also complained that he neglected the education of the children, that the lamps were never lit, and that he showed no concern for the sick. Finally, they asserted that his accustomed prayers, both before and after Mass, were filled with murmurs and curses; that he violated justice and fairness in the exercise of his parochial rights. Although these accusations, if all strictly true, are not, nevertheless, the parish priest has lost his reputation for justice and piety, so that excessive leniency from the Curia must be expected in this matter for a considerable time. For if the animosity cannot be appeased within a year, and it is likely that it will continue for longer, so that the parish priest might not

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be permanently absent from his church, and so that no harm may come to the salvation of souls from the absence of their proper pastor, all means must be employed to persuade this man, even if innocent, to freely resign from the parish or to be transferred to another one, according to Fagnan, in Chapter Clericus, n. 26 and following, concerning non-resident clergy, and according to the Sacred Congregation of the Council, in the Indult of Tyburtina, dated September 17, 1737, under §. Si vero. Therefore, if such strictness is demanded in the case of parish priests, even innocent ones, because of the hatred of the people, what should be said about this parish priest, who has aroused such hatred in the people, which is unlikely to cease? With these things noted, two points must be addressed.

[*Latin ed. p. 568*]

REINTEGRATION INTO THE PARISH 568

I. Whether the decree of November 13, 1873, should be affirmed or denied in this case. And, to the extent that it is negative regarding the first part, and affirmative regarding the second.

II. How provision should be made in this case.

RESOLUTION. The Holy Congregation, after due deliberation on June 21, 1879, decided as follows:

Regarding the first: Affirmative regarding the first part, and negative regarding the second: and the Bishop shall set a term for the parish priest within which he must renounce the parish; and if he refuses to renounce, he shall proceed to the deprivation of the parish, after at least a summary process. In both cases, however, provision shall be made for the same parish priest, either through a pension or a benefice without the care of souls, and further.

Regarding the second: Provision shall be made as stated in the first.

(1) From which you may gather:

I. That even innocent parish priests can, by law, be removed from their parishes, if the wicked people hate them; for if a man's life is despised, it follows that his preaching and all the spiritual things he offers will also be despised.

II. Thus, that parish priests who are infected with some crime, through (1) so that you may understand that the long-suffering of the Apostolic See in tolerating allows for the discovery that, after the process is completed, the wicked person has been convicted by a solemn and just judgment. Compare (besides the method of acting with the parish priest about whom we are speaking) Volume I, page 513; Volume II, pages 276 and following; Volume V, pages 68 and following; Volume XI, pages 143 and 482; and how the prescriptions of the sacred canons are fulfilled before the (2) Innocent

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III, chapter 10, on renunciation, says: "For the wickedness of the people, sometimes a prelate is compelled to withdraw from them, when the people are so stubborn and, in rebellion, so persistent that he cannot profit among them, but because of their stubbornness, the more he strives, the more he is vexed, and the cleric cannot be spared from it, unless after a crime, after warnings have been given, and after a just judgment has been rendered."

[*Latin ed. p. 569*]

REINTEGRATIONS INTO THE PARISH 569. Those justly removed from the parish are subject to punishment; but pastors, even though innocent, are punished without fault, but not without reason, as an example, the pastor afflicted with leprosy, who is removed from the duties of administration. III. When, due to the hatred of the people, pastors are not excused from residence, nor can a perpetual dispensation from residing be obtained, as stated in the Council of Trent, Session 6, chapter 2, concerning reforms; nor even for just and reasonable causes, therefore, they are to be encouraged to resign or exchange the benefice, so that the good of souls may be promoted. IV. The removal from the parish can be temporary, insofar as it is foreseen that the animosities will not last long; in which case, for the good of souls, consultation is sought with a suitable Vicar. V. It has been observed that, through his manner of acting, the pastor has aroused the hatred of the people, which is unlikely to cease; therefore, the pastor has been ordered to renounce the parish, and if he does not do so, the parish will be deprived of him, with the canonical form observed. CONCERNING THE TITLES OF SACRED ORDINATION. On June 21, 1879. In relation to the status of the Church of Chiapas in the Mexican province, which the Most Reverend Bishop transmitted to the Sacred Congregation, he stated: "It is the practice of the Universal Church of Mexico to confer the title of Administration upon the clergy, and I have followed this practice." In view of this, the same Bishop was asked to report more precisely what is meant by the title of Administration, and whether this practice is long-standing, and whether it is associated with any particular privilege. After deliberation, the Most Reverend Bishop, following the custom of the Sacred Congregation, explained the following on this day, November 10, 1877: "1° By the title of Administration is understood the designation of a cleric for ecclesiastical duties, where the Bishop deems it necessary, with the right to receive a pension appropriate for his support, drawn from the offerings of the faithful, provided that he is not rendered incapable of performing those duties through his own fault."

[*Latin ed. p. 570*]

570. CONCERNING TITLES: "In order to provide greater clarity on this matter, it is necessary to know that certain faithful Christians in the Mexican Church are, by reason of certain ecclesiastical offices, granted specific

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titles. These titles constitute a part of the endowment of beneficed clergy, and concerning them, a designated pension is paid to priests by the Bishop to the parishes, sent as vicars or assistants to the pastors, which the pastors themselves are obligated to pay. Furthermore, the designation for such an office, or for any other office, as a part of the ecclesiastical administration, with the right to the aforementioned pension, or to another assigned one, is called the Administration Title.

2. The practice of granting this title to clerics dates back to a time long past, and, if I am not mistaken, it is universal in the Mexican Church, so that scarcely one or two priests can be found in it who have not been ordained under this title.

3. However, no one to whom this custom applies has ever received a special privilege. Perhaps it originated from the title of "Doctor of the Indians," introduced by the Third Council of Lima, adopted by the Third Mexican Council, and approved by the Holy See, through a certain evolution. Since the matter concerned a practice affecting the entire Mexican Church, requests were made to the Archbishop of Mexico for information and a vote, and to report whether the custom mentioned in the requests was indeed of ancient origin, and whether it met all the legal requirements. He responded: "From the most ancient times, of which there is no longer any memory, all those who have been Bishops who governed and administered the Churches of this region for more than 300 years have admitted or consented to this title. Our most esteemed predecessors saw not only that the people were in spiritual need, but also that there were few who could be ordained with the title of benefice, chaplaincy, or endowment (which is particularly noteworthy after the confiscation of Church property and the subversion of ideas), and they judged that a certain, appropriate, and suitable provision should be made, which would come from..."

[*Latin ed. p. 571*]

SACRAE ORDINATIONIS 57i: «Beneficia, provenienda et iura, quae fidelibus in singulis paroeciis sacerdotibus erogantur vel ob administrationem sacramentorum, vel ob curam animarum.

Quoad substantiam, idem omnino est titulus in omnibus dioecesibus, et tantum accidentaliter differt ob ipsius qualificationem seu denominationem. Sic, exempli gratia, in hac Archidioecesi existit titulus administrationis eodem modo ac illum qui a Episcopo Chiapensi profert seu explicat; vocari etiam alicubi solet titulus idiomatis seu linguae vernaculae. Nam cum existant Indi qui tantum lingua vulgo dicta Mexicana, Otonie et Mazahua utantur, iuvenes in Seminario versantes, ac quamlibet ex his tribus linguis seu idiomatibus agnoscentes, poterunt hoc uno titulo ordinari, dummodo illis populis, ubi aliquo ex tribus supradictis idiomatibus utuntur, sacris operam daturi sint.»

B: *sceltati© Sy noetica.* Concilium Tridentinum in Sess. 21 cap. 2 de

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Reformat. ne Ministri Sanctuarii cum ordinis dedecore mendicare aut sordidum aliquem quaestum exercere cogerentur, statuit, neminem ad sacros Ordines promoveri posse, absque beneficio ecclesiastico, patrimonio vel pensione ad vitam sustentandam sufficiente.

En praefati Conc. Trid. verba - ibi - «Statuit Sancta Synodus, ne quis deinceps Clericus saecularis, quamvis alias sit idoneus moribus, scientia et aetate, ad sacros Ordines promoveatur, nisi prius legitime constet, eum, beneficium ecclesiasticum, quod sibi ad victum honeste sufficiat, pacifice possidere . . . . Patrimonium vero vel pensionem obtinentes ordinari posthac non possint, nisi illi, quos Episcopus iudicaverit assumendos pro necessitate vel commoditate Ecclesiarum suarum ; eo quoque prius perspecto, patrimonium illud vel pensionem ab eis obtineri, tabeque esse quae eis ad vitam sustentandam satis sint.»

Ex quo consequitur titulum s. Ordinationis fundari debere in re certa ac stabili, quae Clericis ad vitam sustentandam sufficiat. Hinc recte definitum fuit a s. C. CongregaEA QUAE CONSUETUDINI ADVERSARI VIDENTUR.

[*Latin ed. p. 572*]

572 CONCERNING TITLES: It is taught in the Collection of Decrees, book II, Decret, page 54, that a patrimony cannot be founded on the profits of one's own industry. Nor can it be founded on movable or livestock: for in the Sypontine decree of November 29, 1670, book 26, Decret, page 471 and following, in response to the question, "Can a patrimony be assigned over movable goods and said animals?" the Sacred Congregation replied, "No." Indeed, the aforementioned titles of ordination proposed by the Bishop of Chiapense do not at all provide that stability which the Council of Trent required. For although it is true that those promoted to the sacred orders by such a title would have the right to receive a pension from the parishes, derived from offerings, this right is *de re*, not *in re*, since those offerings and prestations are entirely based on the will and generosity of the faithful. Therefore, if a title is not considered sufficient for receiving the sacred orders, and the promise of providing for one's life is necessary, although it has come from the highest authority, it would seem all the more that the titles of administration, as they are proposed, are not sufficient to form a true title of ordination. This is clear from the teaching of Barbosa in the Council of Trent, Session 21, chapter 2, numbers 36 and 37; and in his work *De officio et potestate Episc.*, page 2, Allegation 19, number 73, where he states: "He should not be admitted to the sacred orders who, having sufficient patrimony, or a benefice, obtains from a friend a cession in which he promises to provide him with the necessary means of subsistence." And from the decree of the Sacred Congregation in the Florentine decree of June 28, 1704. When the Emperor had granted a diploma, or title, of a mensal stipend to a Florentine cleric for his honest support, until a sufficient

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benefice was provided, and the question was raised, "Can he be validly and lawfully ordained with the title of said mensal stipend?" the response was, "No." It is not permissible for the practice of the Mexican province to be upheld, based on a custom that is almost unmemorable. For this proceeds openly against the disposition of the Council of Trent, especially in a matter of such grave importance, and should be considered a corruption rather than a legitimate custom.

FROM WHAT SEEMS TO FAVOR THE CUSTOM: On the other hand, the following may be noted. The practices which, three years ago...

[*Latin ed. p. 573*]

The sacred ordination, which for 573 years has been in force throughout the entire Mexican Diocese, and which is opposed to the doctrine of the Council of Trent, does not seem to be able to be denied in any way. Indeed, the Council of Trent intended to express nothing other than that a cleric who is to be promoted to the sacred orders should possess some property sufficient for his honest support, and that he should be established in a certain and stable condition in that property. Furthermore, the titles of ordination which are in force in the Diocese of Chiapas, as well as in the Mexican Diocese, and which clearly indicate this stability required by the Council of Trent, cannot in any way be doubted. The Bishop, moreover, asserts that the faithful are bound to make determined contributions to their parish priests; he further asserts that such contributions constitute the endowment of the benefices, and that the parish priests themselves are obligated to pay a designated pension to the priests sent by the Bishop to the parishes, as vicars or assistants to the parish priests, and who, therefore, have the right to demand it. Therefore, it would seem that the "obligation on the parishioners to make determined contributions to their own pastors, as well as the obligation of the parish priests to pay a determined sum to their assistants appointed by the Bishop, would not in any way cast doubt on the stability of the title." What is more, the facts clearly confirm that this is the case. For three centuries, this practice, of conferring the sacred orders with a title of administration, has been in force throughout the entire Mexican Church; and yet, in so long a period of time and with so many clerics, no example has ever been seen of a cleric thus ordained being compelled to beg or to engage in some sordid occupation in order to support himself. No one can fail to see how important this is for approving of such a practice; especially if one considers that almost all of the clerics in that Church, due to the poverty of the place and the particular circumstances, are admitted to the sacred orders only with this kind of title. Nor is this all, but another reason appears which suggests that the practice established in the Mexican Church should be maintained in its strength by the Holy See; namely, the

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presumption of law and the same privilege, or the same apostolic approval.

[*Latin ed. p. 574*]

§74 CONCERNING TITLES: It has been asserted that this practice [of granting benefices without titles] has been in existence. Indeed, it has been discovered that such a practice has been in use there for more than three centuries; and it is well known that the passage of so much time establishes a custom, which is called "unmemorable." However, the power and efficacy of an unmemorable custom are so great that it can, without fail, confer a title from the world, and even a privilege, and, if necessary, an apostolic dispensation, as is testified by St. Rota in numerous cases, especially in decisions 624, no. 8, and 564, no. 11. Cardinal De Luca also testifies to this in discourse 32, nos. 2 and 4, on Benefices; Bonfin, on the Law of Fidecommiss, in discourse 114, no. 31. Moreover, since this practice does not, at least in appearance, lack a title, the Bishop may, perhaps through a certain evolution, consider it to be permissible, according to the disposition of the Council of Lima III, adopted by the Mexican Council and approved by the Holy See. Nevertheless, if not for the sake of justice, at least for the sake of grace, such a Mexican observance seems worthy of a benevolent sanction. Indeed, when there is a just cause, the Church, like a benevolent mother, has been accustomed to relax the rigor of the canons, which prescribe that no one should be promoted to the sacred orders without a title of benefice, or patrimony, or pension. Among the just causes, the poverty of the place can be listed first, as the Tridentine Decrees state in Session 21, chapter 2, on Reform. Nor are there lacking examples in which the Apostolic See has, after careful consideration and with full knowledge of the facts, granted dispensations. What seems to be particularly applicable to our case is the Brief issued to the Patriarch of Venice, which is found in the Venetian Synod held in 1592, in which it was granted to ordain clerics in the sacred orders with the title of "Service to the Church." In this document, it is written: "We, therefore, desiring to provide for the needs and advantages of individual churches, grant to your Fraternity that all and each of the clerics of that city, whom life, morals, etc., may have recommended, even if they are not provided with a title of ecclesiastical benefice, or an annual pension, or do not possess patrimonies, or other goods, provided that they have been assigned to a church... with the consent of the Rector of that same church, from the service and alms generously bestowed by pious Christians..."

[*Latin ed. p. 575*]

SACRAE ORDINATIONIS 575: «Concerning what they may have for the sustenance of life, and concerning the four minor orders, as well as the sacred orders of the Presbyterate, you may freely and lawfully promote them at the appropriate times, having observed the decrees of the Council of Trent; by the present Apostolic authority, we grant permission and faculty.»

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There is no doubt concerning the condition of Bishops, to whom resources are lacking, regarding how they can provide for Clerics deprived of their patrimony. This certainly suggests that, at least by grace, the practice of the Diocese of Chiapas should be permitted by the Sacred Congregation of the Council, so that through innovations, the entire Church of Mexico may not be left without suitable Ministers for cultivating the Lord's vineyard, to the detriment of the faithful, which would be an irreparable spiritual loss. With these premises, the matter to be resolved was the question of whether the practice of the Church of Chiapas, of promoting Clerics to the sacred orders under the title of Administration, is permissible in this case.

RESOLUTION. The Sacred Congregation, on June 21, 1879, after discussion, decided to respond: Affirmative.

FROM WHICH CANONS:

I. FROM Tridentine Session 22, chapter 2, concerning reforms: Ecclesiastical benefices are to be used as the most suitable cause for Ordination; therefore, no one should be admitted to the sacred orders unless it is first legitimately established that he possesses an ecclesiastical benefice, which honestly suffices for his sustenance. (1)

II. It was also decreed by the same Tridentine Council that pensions and patrimonies should make the path to receiving the orders easier, so that the necessity and advantage of the Church may be sought; in this matter, prudent and cautious judgment must be exercised by the Bishops. (1)

(1) The Most Noble Cardinal Pallavicini, noting the title of patrimony, observed, as is indicated in the history of the Synod of Trent, that there are few ecclesiastical benefices, and that in some places, many of the Fathers, when discussing the titles for receiving the priesthood, considered that the benefice should be the principal reason for receiving the sacred orders; others considered that patrimonies and pensions should make the path easier to receiving the sacred orders, while others maintained that the priesthood should be conferred indiscriminately on all.

[*Latin ed. p. 576*]

576. CONCERNING the titles for Holy Orders, III. It must be certain, stable, and fruitful that the means by which a sacred provision is made, are sufficient to sustain the cleric throughout his life. IV. Therefore, it has been repeatedly decided by the Sacred Council that a sacred provision is not made from that which someone withdraws from his own industry and honest labor, nor from movable or transportable goods. V. However, the rigor of canon law is sometimes relaxed by the pious Mother Church, whenever there is a just cause, such as the poverty of a place, and the necessity of the Church, and the utility (1). VI. Hence, besides the religious orders of mendicants, which are established under the title of poverty, there exist

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countless examples of dispensations, so that clerics may be promoted to the sacred orders without a sacred provision, whenever such dispensations are necessary, and for the utility of the Church (2). VII. It has been demonstrated that just causes have existed, and that the titles of the Orders appear to fulfill the stability required by the Council of Trent, therefore this practice could not be disapproved, lest bishops, deprived of ecclesiastical goods by secular power, also lack suitable ministers for cultivating the Lord's vineyard. (1) From Cardinal Pallavicino, in the history, council, and concerns of the Most Reverend Peter Avanzini, book 17, chapter 9, of the Council of Trent, it is specially noted that the utility of the Church is derived from the Most Holy Pope Pius X, who promotes seminarians to the sacred orders. "Who can deny," he says, "that the greatest benefit to the republic comes from the Patavin seminary, granted by the Indult of Clement X for the Missions, because more of its members can be initiated into the sacred orders, provided that they have agreed to a condition that they provide more than the cost of the seminary's table, and in the meantime, they must perform ecclesiastical service. These, by their dignity and example, can reconcile disagreements, remove others from malice, and be able to receive into their authority." (2) A recent example of this kind of dispensation is found in the Seminary of the Apostolic Missions, recently established in Rome, as previously granted on May 13, 1640, as the same had previously granted on May 18, 1638, to the students of the College of Egede.

[*Latin ed. p. 577*]

577 APPENDIX IX. CONCERNING DONATIONS AND WAIVERS MADE IN VIEW OF ENTERING RELIGIOUS LIFE, AND REGARDING WHAT IS RECEIVED IN CONNECTION WITH SUCH OFFERINGS MADE BY NOVICES IMMEDIATELY BEFORE ENTERING THE RELIGIOUS ORDER, WHICH ARE ESTABLISHED AS A NEW FOUNDATION; AND CONCERNING THOSE WHO, HAVING MADE SUCH OFFERINGS OR WAIVERS TO THE MONASTERY, ARE THEN IMMEDIATELY ADMITTED TO THE CONVENT BEFORE THE MONASTERY IS ERECTED. In a transaction presented before the Most Holy Synod of Bishops and Regular Canons on December 20, 1878, and April 4, 1879 (1), on the part of the party contesting the transaction, the question was raised regarding the nullity of transactions made within two months preceding the immediate profession, according to Chapter 16, Session 25 of the Council of Trent, concerning Regular Canons and the complete restitution due to those who, with the intention of entering the religious life, have made donations to the monastery or have made waivers; and whether such a profession ever took place. On the other hand, those defending the validity of the transaction asserted that such waivers and donations are irrevocable, and are presented immediately to the Holy See for the purpose of establishing a new monastery, and are accepted by the Holy See for that purpose. We

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have considered it worthwhile to examine more closely the value of such individual proposals, since this matter of waivers and donations is of the utmost importance, both because of the obligations of the donors, and because of the honor and rights of the Universal Church and the Holy See, which are often called into question in such matters. It is certain, from the words of the Council of Trent and from the common opinion of Doctors who have commented on those words, that waivers and donations made by novices are invalid, unless they are made within two months preceding the profession. Indeed, in the Council of Trent, Session 25, Chapter 16, it was decreed: "Also, no waiver or obligation previously made, even with an oath, or in favor of any pious cause, shall be valid, unless it is made with the permission of the Bishop, or his Vicar, within two months preceding the profession, and shall not be understood to have effect except after the profession; otherwise, even if made with an express waiver of this favor, even if sworn, it is void and of no effect." It is clear that the purpose of this provision was primarily to protect the freedom of novices to return to the world: as Schmalzgrueber states in book 3, title 31, number 99: "There..." (1) See volume X, page 519 of this collection. Acts, Volume XII, section XLIII, 87.

[*Latin ed. p. 578*]

578 APPENDIX IX. Per hoc decretum, alius [i.e., ille qui decrevit] novitium protegit, conservans libertatem sacrosanctae vitae, et facultatem revertendi ad saeculum; sed haec libertas multum minuitur "per renuntiationes, pacta et contractus per quos iura et bona novitiorum notablem detrimentum patiuntur."

Ita enim, si quis, intra mensas religionem intrante, primo fervore animi, donationem pro Monasterio validam emitteret, et deinde, sicut saepe accidit, tepore vel satietate subsequente, ad vota saecularia redire vellet, manifestum est, ob donationem emissam, libertas eius non amplius integra fore; cum non aliter quam bonis spoliatus ad vota saecularia redire posset. Cum vero in professionibus religiosis, tanta libertas agenda sit, ut defectus eius ipsam professionis validitatem destruat, omnia quae libertatem omnino tueri possunt, semper magno in pretio habenda sunt.

Praecipuum locum in renuntiationibus et donationibus habet tempus edendae renuntiationis: licet per decretum Concilii Tridentini diligenter indicatum sit, non ante duo menses professionem immediate praecedentes validas renuntiationes dari posse; tamen, non parvi momenti quaestiones circa hoc caput exortae sunt.

Primo loco, quaesitum est, a qua die novitiatus initium sumeret, et qua temporis diuturnitate in casibus ordinariis protrahendus sit; et responsum datum est verbis ipsius Concilii Tridentini, Sess. 25, Cap. 15, de Regul.: "Ibi nec qui minori tempore quam per annum post susceptum habitum in probatione steterit ad professionem admittatur." Hoc enim capite, praefini-

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tur terminus a quo novitiatus incipere, et terminus ad quem usque perdurare debeat; illum indicat habitus religiosi susceptio, hunc conficit dies qua annus a susceptione habitus expletur. Quod quidem tempus neque ultra annum esse protrahendum, neque anno minus esse debuisse, certum est.

Secundum, eruitur ex verbis eiusdem Synodi Tridentinae (citatae Sessionis, Cap. 19), quibus praescriptum est: "Finito tempore novitiatus, superiores novitios, quos habiles invenerint, ad professionem admittant, aut e professione eos ejiciant." Tertium praeceptum adest in verbis praecedentis capitis XV: "nec qui minori tempore quam per annum, etc."

Auctores, et praecipue Schmalzgrueber (De regularibus, n. 65), haec verba Tridentinae Synodi commentantes, tradunt: novitiatus annum completum intelligi de momento in momento; ita ut si horae quadrans deessent, professio pro nulla habenda foret, cum nimis explicita sit sanctio nullitatis quam ipsa S. Synodus expressit, decernens: "Professio autem antea facta sit NULLA, NULLAMQUE INDUCAT OBLIGATIONEM ad alicuius Regulae vel Religionis vel Ordinis observationem, aut ad alios quoscumque effectus."

Haec quae huc usque dicta sunt,

[*Latin ed. p. 579*]

ix. [The matter] had been discussed (Schmalzgrueber, *De Regul.*, nos. 70 and 71). Many [questions] similar in gravity were brought to light. For, since the duration of the novitiate was contained within a full year, a doubt arose as to whether this year should be continuous, so that any interruption would invalidate it. And it is the received opinion, by common consent, that the novitiate year is to be understood as continuous, and so continuous that if someone were to receive the habit and perform six months of training, and then spend a year away, and then return to the monastery and remain for another six months, and then make his profession, he would not validly proceed: (Reiffenst. *De Regul.*, no. 103), nor would continuity be maintained if the novice, even for a single moment, were to flee, with the intention of not returning: (Schmalzgrueber, *De Regul.*, no. 69), for continuity of time is not given unless the mind and the deed concur. And since the deed is stronger than the mind, it has been considered that the continuity of time does not fail if the novice, with the permission of the superiors, remains away from the community for some time, even up to six months, or if, for ten months, he is confined to his bed due to illness (Reiffenst. *De Regul.*, nos. 107, 108). For the same reason, the opinion prevailed that if someone had completed the full year of the novitiate, and before making his profession, had either been dismissed or had left of his own accord, if he were to return and be received, he could make his profession without renewing his novitiate, provided that there had been no notable change in him, or in his religious sentiments, in the meantime (nos. 57, 59).

Now, since the year from the day the habit was received was to be

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counted as the novitiate year, it seemed appropriate to establish something regarding religious orders, in which the reception of the habit is not required; and it is stated that, from the moment of entering the novitiate, the year is to be counted (same author, ibid., no. 56). Nothing needs to be said about the age at which religious profession could validly be made, since the Council of Trent, in the same session, 25th chapter, 15th canon, clearly prescribed that "in every religious order, of both men and women, profession shall not be made before the sixteenth year has been completed."

From what has been stated, it can be inferred what is meant by "the year of the novitiate"; namely, that it is a full year, continuous, flowing from moment to moment, from the day the habit is received to the day of profession, not to be ended before the sixteenth year has been completed. However, the renunciations and donations of the novice are valid only after the tenth month, and only after the profession has followed: and the dominion of things is irrevocably acquired by the donee or the one who resigns, as Schmalzgrueber states, *lib.* 3, title 31, no. 121: "It is asked whether, when this renunciation or donation of goods is made in favor of the monastery, or of another donee or recipient, the things can be delivered to him before the profession of the novice?"

[*Latin ed. p. 580*]

580 APPENDIX IX. whether they ought to be so transferred? It is certain that they cannot be transferred in such a way that ownership of them is irrevocably acquired by the recipient or donee: because the Council of Trent wished that such a donation, or renunciation, should not have its effect until it is followed by a profession; but it would have effect if ownership of the property or gifts were irrevocably acquired by the recipient or donee. Regarding the other, whether the monastery can retain the goods of one who has not revoked the donation, it was doubted. The Sacred Congregation of Cardinals of the Council of Trent, interpreting, decided that neither the goods of one nor the other could be retained by the monastery, since no renunciation had been made that was followed by a profession. Thus, Fagnan reports in Chapter 23, "We Decree" regarding Regulations. Now, it is clear that those things which are not acquired by donation or renunciation to the recipient or donee due to nullity of the act, remain in the power of the donor or renouncing party. Following this criterion, Ferraris in his Bibliotheca, in the article "Novitiatus," numbers 66 and following, teaches: "To a novice departing or being expelled, all the goods which he took with him must be returned, and the superiors of the regular order cannot retain anything, even the smallest thing, from them; and to ensure that this is done properly, the Bishop can even compel them to do so through ecclesiastical censures, as expressly stated in the Council of Trent, Session 22, chapter 16: 'Those departing before profession must return all

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that was theirs'; and to ensure that this is done, 'the Bishop can, if necessary, compel them through ecclesiastical censures.' Indeed, a novice departing or dying before making profession cannot have goods given to him by the monastery retained, even if the donation was made with due solemnity and form according to the Council. For, if two novices entered religion, having given their goods according to the form of the Council, and afterwards both died, but one revoked, then the goods... But what was transmitted concerning the computation of the years of novitiate and the age required for the validity of the solemn vows, has undergone a substantial change, as it appears from the Acts of the Sacred Congregation concerning regular canons, that a decree was issued on March 19, 1857, which states: "After the probation and novitiate, as prescribed by the decrees of the Holy Council of Trent, the Apostolic Constitutions and the statutes of the Order approved by the Holy See, the novices shall make their simple vows, after they have reached the age of sixteen years, as prescribed by the same Holy Council of Trent, or a greater age, which perhaps is required by the statutes of their own Order approved by the Holy See; and as for those who are converted, after they have reached the age specified in the Constitution of Clement VIII, beginning with the words 'in Supremo.' Those who have made their simple vows shall, after three years from the day on which they made their simple vows, if they are found worthy, be admitted to the profession of solemn vows, unless perhaps in some places, as in some institutions."

[*Latin ed. p. 581*]

It is granted that the profession of simple vows may be extended for a longer period. However, the provincial superior may, for just and reasonable reasons, postpone the profession of solemn vows, but not beyond the age of twenty-five years. Furthermore, the acts of the same Congregation show that, in the year 1862, the doubt was presented to the Most Holy Pope Pius IX: When may those who have made simple vows be able to make that renunciation of which the Holy Council of Trent, session 25, chapter 16, speaks, by which they renounce dominion over their own affairs? And His Holiness, with Apostolic authority, decided and decreed that the renunciation referred to in the aforementioned chapter 16, session 25, of the Council of Trent, takes place within two months preceding the profession of solemn vows, notwithstanding any contrary provisions. This substantial change in the law means that valid professions can only be made after the completion of three years from the day of the simple vows: and to this three-year period, all the rules that were given during the year of the novitiate must be applied. And since simple vows cannot be made before the completion of the sixteenth year of age, it follows that: solemn vows cannot be validly professed before the completion of the nineteenth year of age, and only after the lapse of three years from the day of the simple profession. It remains firm that donations and renunciations must be made within the

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two months immediately preceding the profession, and that they only acquire full validity after the profession. There are also subordinate questions regarding the quantity of the goods given, or regarding the computation of the two months, or finally, regarding the age of the person renouncing and the form of the act of renunciation. It has been said that, unless the goods of the novice are notably diminished by renunciations or agreements, the law of Trent does not apply to them; therefore, they are to be considered valid. "The reason is taken (according to Schmalzgrueber in title de Regul. 99) from the purpose of the decree of Trent, which intended to preserve the freedom of the novice to return to the world; but this is greatly diminished by renunciations, agreements, and contracts by which the goods and rights of the novices are notably diminished, and not diminished by contracts and agreements by which they are not notably diminished." The computation of the two months must be made from moment to moment, and the sixteenth month of the novitiate must not precede it, as the authors cited by Ferrais in Op. cit., at the word "Novitiatus," teach, who, having already stated in n. 80 that it is not necessary for the renunciation to precede the profession by a full two months, but that it is sufficient for it to be made.

[*Latin ed. p. 582*]

582 APPENDIX: Within the entire two-month period preceding the profession, even immediately before it, the following applies, as per number 81. This two-month period must be calculated precisely, moment by moment, and according to the calendar. Barbosa, *supra*, Trid. Sess. 25, cap. 16. Bartholomew of St. Faustus, in *Thesauro Religiosorum*, book 5, question 193. Sperell, decree 16, number 54. Tamburin, *De Iure Abbat*, volume 3, paragraphs 8, 9, 10, number 4. Bartholomew de Vecchis, in *Praxi Observanda in Admittendis ad Religionis Statum*, paragraph 8, doubt 9, number 5. Therefore, the Sacred Congregation of the Council, on January 21, 1617, expressly decreed: that a renunciation made by a novice before the two months prescribed in the aforementioned decree of the Council is not valid. However, Ferraris, adhering to the authority of Bartholomew de Vecchis, *loc. cit.*, paragraph 8, doubt 9, number 5, and Barbosa, in the aforementioned chapter 16, number 37, state that the Sacred Congregation decided this matter in such a way, and he himself notes this, *loc. cit.*, page 83. If, for any reason, the profession is postponed beyond one year, the renunciation made by the novice after the tenth month of the novitiate is valid. And concerning the age at which such renunciations are valid, it appears to be taught that, even if the sixteenth year has not been completed, the renunciation made by the novice two months before the profession is valid, provided that the profession follows in due time, and that the [religious] community [is] aware [of this]. (1) Compare the lines concerning the author C'?, T and VI, IX, regarding the formalities prescribed by the Council of Trent; on the contrary, if these formalities

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are lacking, the completion of the sixteenth year is not sufficient, as the same Sacred Congregation responded in the decisions that Barbosa refers to in *Summa Apostolicar. Decision*, under the word "Renunciation of Novitiate," numbers 2 and 3. It was also asked, what is the case in which the profession is anticipated by a Pontifical dispensation? What if the Pope were to order that a certain novice make his profession after six months from the reception of the habit? Would the renunciation made after the completed fourth month of the novitiate be valid? Schmalzgrueber, in *Tit. de Regul.*, number 106, responded that the validity of the renunciation appears more probable. To this opinion, we also subscribe (1). These matters must also be understood today in relation to the decree of the Sacred Congregation concerning the status of religious and the due proportion to be applied to the three years counted from the simple vows. We have now resolved the first of the questions proposed and proceed to the second. A serious dispute exists among the authors concerning the donations or renunciations made by those who wish to enter a religious order, and which are made with the intention of entering said order, in order to effect such acts. Indeed, several authors of great renown defend the affirmative, as stated in *De Jure Regulorium*, volume 1, paragraph...

[*Latin ed. p. 583*]

Many, including learned individuals, hold the negative opinion. Both sides cite decisions of the Sacred Congregations and the Roman Rota. Those who argue for the validity of donations cite, among others, the aforementioned authors Ferraris and Schmalzgrueber: the former with greater vehemence, the latter with a more moderate tone, since he admits the possibility of restitution in integrum. The author Ferraris (in the cited work) presents the reasoning for his opinion under number 40, with these words: "Our reasoning is this: since the aforementioned decree of the Council is corrective of the common law, it must be understood only in its specific case, and it cannot be extended to others, even if reason might seem to demand it, because of the principle of Chapter 18 of the *Regulae Iuris* in 6, 'those things which exceed the common law are not to be drawn to that conclusion'; and furthermore, because in cases of doubt, the text must be understood according to the rubric under which it appears, since each text must be properly subordinated to its titles. The rubric of the Council is 'concerning the rules,' which is not the same as the rule that currently exists in the world, even though one intends to enter religion. Furthermore, because Chapter 16 of Session 25 is a continuation of Chapter 15 immediately preceding, as is clear from the particle 'ibi' also placed at the beginning, 'there,' 'no renunciation, etc.,' the meaning of which is to connect the following with the preceding. But Chapter 15 immediately preceding expressly speaks only of novices, as is clearly evident from the text: therefore, the aforementioned Chapter 16 immediately following

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must also be understood to refer only to novices, through that same particle which connects it with the preceding. Milder, as we have already indicated, is Schmalzgrueber in the cited work, number 25: he says that the opinion he adopts is more probable, but not absolutely to be preferred, and he leaves open the possibility of restitution in integrum for those who leave the religious life.

"The question is asked: do the dispositions of the Council apply, and consequently, are donations and renunciations made before entering the novitiate in religion also subject to them? It is certain that they are not invalid if they were made with an intention other than that of entering the religious life: for they would have been made in the same way even if the one donating or renouncing had not entered the religious life; consequently, they do not impede the freedom of departure, which the Council of Trent intended to protect above all else. There is controversy as to whether such donations and renunciations made by a candidate for religion are made with the intention of entering, or whether mention is made of that intention. Navarr and Flamin defend the affirmative. But, despite these objections, it must be said that such donations and renunciations made before entering the novitiate, even if made with the intention of entering, are more likely to be valid; although, in the case that the one renouncing or donating should change their mind and return to the world, or not enter religion at all, they may have recourse to the benefit of restitution in integrum if it is more advantageous to them."

[*Latin ed. p. 584*]

584 APPENDIX. Indeed, even if the reason is greater, due to the general clause "if any other just cause appears to me." However, those who hold contrary opinions adhere to the distinction introduced by Ventriglio, in *Praxis Part.* 1, note 46, § 13. Among these is Pitonius, who in his work, *Disputationes Ecclesiasticæ*, vol. 1, discourse 6, no. 24, states: "I replied that, although there is a very sharp controversy among writers as to whether the Council affects donations made by those entering religious life, with great doctors on both sides, as can be seen in *Rota Cor. Royas*, decision 91, *Bottilier*, etc., nevertheless, in our case, this dispute is avoided by a fundamental distinction: namely, whether it is asked whether the solemnities of the Council must be observed before entry, consisting in the fact that a renunciation must be made two months before the upcoming profession, and with the permission of the Ordinary, and the negative opinion is more likely; or whether, in such a case, the conciliar regulations apply, namely that the renunciation is not understood to have effect unless it follows the profession, and the affirmative opinion is more likely, that these regulations apply. Thus, by distinguishing with the Council, all are distinguished,' as Ventriglio states in *Praxis*, etc." "Note that those who hold the opinion whether the regulations of the Council of Trent, cited

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in chapter 16, apply to a renunciation or donation made before entry, are considered to not proceed with the aforementioned conciliar regulations with regard to the solemnities mentioned in the Council: so that the one donating or renouncing before receiving the habit is not considered to be making a donation or renunciation before the Ordinary, and for two months before the profession; however, the conciliar regulations do apply in this case, when someone donates or renounces, thinking of entry, with regard to revocation and recovery, of the donated or renounced, so that they cannot... retain it after their departure, but must restore everything to the donor or renunciant." This distinction, since it is not contradictory, must be accepted: because to have a precise doctor is to have a case of law. Indeed, this distinction has been accepted, and the *Rota* in *Ferrarien. Canonicatus*, March 5, 1698, §, especially before Pius, states: "In the session of the aforementioned Holy Council, it is literally prescribed that the renunciation is not understood to have effect unless it is followed by a profession; and since the same was not made with the intention of making a profession, then, of course, the renunciation is void by law, as if the purpose intended by the Holy Synod had not been fulfilled, and the one who renounced must return with all his goods, with which he had deprived himself with the intention of making a profession, as is fully affirmed in the Roman *Institutiones Doti*, January 16, 1696.

[*Latin ed. p. 585*]

"Concerning the case before Scotto, it holds that a place is obtained even if there has been no mention whatsoever of entering the religious life in the renunciation; for it is certain that the contemplation of a future entrance can be inferred from the circumstances previously considered. This contemplation of entrance is considered so effective in resolving the requirement for a profession that, even if one had resigned from the world upon completing the act of resignation, he would still be considered within the jurisdiction of the conciliar decree, which determines that renunciations are not to be understood as having effect unless followed by a profession. Although, in the question of whether renunciations made in the world are subject to the conciliar disposition, the more accurate opinion is the negative one, as previously stated, nevertheless, this pertains to avoiding the formalities prescribed by the same Council, namely, that the license of a Bishop or Vicar is not required, nor that the renunciation must be made within two months preceding the profession; it does not pertain to avoiding the suspension of the renunciation until and unless it is followed by a profession: for, certainly, if it is not followed by a profession, the renunciation ceases to be valid, and the goods must be returned to the renunciant, as Veniriglia and others demonstrate. We have followed this last opinion in the aforementioned case of the Transaction, in the sixth paragraph, which is worded as follows: "(1) 'Goods,' whether they are renunciations that are

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made with a view to entering the religious life, but the very entrance into the religious life, do not otherwise have their effect considered as having taken place, unless followed by a profession." Indeed, the reasons indicated by the author Ferraris touch upon the form rather than the substance of the Tridentine disposition; the substance (or the spirit of the law) always remains, namely, the necessity of protecting the liberty of the novice, until the profession takes place. Therefore, donations or renunciations made by a novice within two months preceding the profession are to be considered valid, provided that they are followed by a profession; likewise, donations or renunciations that are made with a view to entering the religious life are to be considered valid; but, as it seems to us, based on the distinction given by the author Veniriglia, these have no effect unless followed by a profession, and we consider them to be of no effect unless a profession takes place. The reason for the religious state is that both suggest renunciation; the supreme end which the Tridentine Council had in view also prevails, namely, to avoid rash and violent professions; namely, that a person may return to the world as long as he has not made a profession. This principle of liberty pertains to the public good of the Christian republic; for nothing can be conceived as more harmful than..."

[*Latin ed. p. 586*]

586 Moreover, because of the loss of the proper disposition of their affairs, they remain in some religious order; hence, ruin threatens them, while scandal and destruction befall the faithful. This supreme and truly most serious aspect of the matter has so struck even those who defend the contrary opinion, that while they rejected the ordinary remedy of nullity, they readily conceded the extraordinary remedy of restitution in integrum, as we have learned from the aforementioned words of the author Schmalzgrueber, who himself adheres to the opinion of Menochius, Garcia, Sánchez, Barbosa, etc. (1). A third point remains to be considered, namely, how those donations or renunciations are to be understood which are made directly to the Holy See, for the founding of a new community or monastery. Such donations or renunciations will they be included under the provisions of Canon 16 of Session 25 of the Council of Trent? When someone approaches the Holy See and requests that they be allowed to offer their goods for the foundation of a new monastery, they are certainly in a completely different condition than one who donates their goods to an already existing monastery, or to an external one, on the occasion of their religious profession, or their entrance into religion. Indeed, the Holy See does not usually permit the foundation of a new community unless it is first certain of the existence of the goods necessary for the maintenance of the new religious house; and he who donates his goods under these conditions is considered to have incurred an obligation to the Holy See, from which he is not allowed to withdraw. Indeed, the donation of goods is correlative

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to the permission granted by the Apostolic See for the foundation of a new community. And truly, in these cases, the donor seems to have had in view not so much his own interests as the public good of the Church; for the public good of the ecclesiastical commonwealth concerns the firm establishment of a religious family, its house, and its sustenance. It cannot, therefore, be consistent with the will of the donor to have the faculty of revoking his donation, and to found a monastery today, and to destroy it tomorrow. (1) All this discussion regarding renunciations or donations does not touch upon the Order of the Society of Jesus, concerning which the Council of Trent wished to introduce nothing new, expressly stating in the aforementioned passage: "Nevertheless, this Holy Synod does not intend to introduce or prohibit anything," so that the Religious of the Society of Jesus, according to their pious institution approved by the Holy See, "may serve the Lord and His Church, but that neither before their profession, 'except for food and clothing,' any sum be given to the novice or novice of that time while they are under probation, by parents or relatives, or by guardians of the monastery, under any pretext, so that they may not be able to leave on this occasion, nor may they possess the whole or a greater part of their substance in the monastery, nor, if they leave, may they easily recover it;" rather, the Holy Synod commands "under pain of anathema, both those who give and those who receive," that this be done in no way; and that those who leave before their profession return all that was theirs; which, in order that it may be done properly, the Bishop must compel, even by ecclesiastical censures, if necessary.

[*Latin ed. p. 587*]

And we believe that this [principle] has prevailed over all others, in the aforementioned cause, although no explicit act was performed on this matter: therefore, we expressly formulate the seventh corollary (1) concerning this theory, as we have previously stated (1) See citation, volume, page, ix, x, 587. And we shall maintain this firmly, until some explicit response to the contrary should appear, which we do not believe is likely. X, page, 528. FROM THE DECREE OF THE HOLY CONGREGATION OF BISHOPS AND REGULAR CANONS, by which the statute of the pious Society of Sisters is confirmed and approved, called the Perpetual Adoration of the Most Holy Sacrament. Among the many pious institutions with which the Catholic Church is adorned, the pious Society of Sisters of Simple Vows, founded in the Kingdom of Belgium and subsequently spread to many dioceses of the Christian world, which is called the Perpetual Adoration of the Most Holy Sacrament, certainly holds a prominent place, and which has been adorned with frequent decrees of praise and approval by the Holy See. This pious Society, from the year 1848, in order to more fully achieve its intended purpose, established an Association of the Faithful of both sexes, closely linked to it, and to be established in all places, especially where

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houses of the same Institute existed, under the name of Perpetual Adoration and Assistance to the Poor Churches, which has a twofold purpose, namely, to extend the Perpetual Adoration of the Most Holy Sacrament as far as possible, and to provide assistance to poor churches in the region, as well as in mission areas. Because this pious Association has brought abundant fruit to the Church, the Apostolic See has bestowed upon it the title of Archconfraternity, and has granted it many indulgences and spiritual graces, and has also recently granted the primary seat or center of this Archconfraternity the faculty of being transferred to Rome, to the house of the aforementioned Institute. Therefore, the Superior General of the same Institute, on the occasion of this transfer...

[*Latin ed. p. 588*]

DECREE: Considering that, it seemed opportune to the Archconfraternity, in the French language *Reglement*, to humbly submit its Statutes to His Holiness Pope Leo XIII, and with fervent prayers, it requested that they be approved by this Holy Congregation of Bishops and Regular Canons. Therefore, the Most Reverend Fathers of the aforementioned Holy Congregation, having heard the petition of the Most Reverend Protector, and noting with great zeal the efforts of the aforementioned Sisters, who strive to spread the perpetual Adoration of the Most Holy Sacrament and to provide assistance to poor churches, after mature deliberation, they have deigned to confirm and approve the aforementioned Statutes, written in the French language, as contained in this example, as is approved and confirmed by the present Decree, with due regard for the jurisdiction of the Ordinaries, in accordance with the Holy Canons and Apostolic Constitutions. Confident in the Lord, the aforementioned Sisters of the Institute, and the members of both sexes of the aforementioned Archconfraternity, encouraged by this public testimony of the Holy See, will strive more and more in the Vineyard of the Lord, and will bring forth abundant fruits. In spite of any contrary obstacles. Given in Rome, from the Secretariat of the aforementioned Holy Congregation of Bishops and Regular Canons, on the first day of January, 1880. F. CARD. FERRIERI, Prefect. / J. Agnozzi, Secretary.

BRIEF: By which the Sodalities named from the perpetual Adoration of the Most Holy Sacrament are granted a plenary Indulgence, on certain days of the year. LEO XIII, POPE. For the perpetual memory of this event, with the blessing of God, the Institute of Religious Sisters, which is dedicated to the Perpetual Adoration of the Most Holy Eucharist, and...

[*Latin ed. p. 589*]

BRIEF 589: The Churches that are poorer are given the name "for providing sacred furnishings," and this undertaking has grown and spread greatly, and not only in any house of this Institute, but also in places where the Institute is not yet present, Associations or Societies of both sexes of

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the faithful are found, established under the same title, which propose the same purpose and end to themselves as the religious Institute: to adore the august Sacrament without interruption, and to provide sacred furnishings for the poorer churches. Indeed, by decree of the Most Holy Congregation for Indulgences and Sacred Relics, dated February 1, 1879, the seat of the Arch-Society, established in the principal house of the Institute in Brussels, was transferred to Rome. Furthermore, the Most Reverend Daughter in Christ, Anna de Meéus, General Superior of the aforementioned Institute, has made it known to Us that it would be most fitting if these Societies, on the feast days of the Saints who are the patrons of the Institute, both the principal and the lesser ones, and also on the occasion of the novena of supplication, which they call "expiatory," were to generously contribute to the heavenly treasures of the Church. Moreover, We, in order that these Societies, which have deserved so much from the Catholic Religion and from the Holy Apostolic See, may receive greater growth from day to day, and in order to grant the requests presented to Us on this matter, We have readily decided as follows. Therefore, trusting in the mercy of Almighty God, and in the authority of the blessed Apostles Peter and Paul, We grant to all and to each of both sexes of the faithful who belong to these Societies, in any house of the aforementioned Institute, or elsewhere canonically established or to be established; if, truly contrite and having confessed their sins, and having received Holy Communion of the same Institute, they devoutly visit the church or oratory of that Institute, or another church or oratory where the Society is canonically established, or even the respective parish church, on the feast days of Saints Francis of Assisi and Ignatius of Loyola, from the first vespers until sunset on those days, each year, and there offer devout prayers to God for the concord of Christian princes, for the extirpation of heresies, for the conversion of sinners, and for the exaltation of the Holy Mother Church, and if they perform these actions on those days, We mercifully grant them, in the Lord, a Plenary Indulgence and remission of all their sins. Furthermore, to those same [members], We grant that...

[*Latin ed. p. 590*]

590. A BRIEF granted to three and to the Sisters of the Sodalities, in any house of said pious Institute, or elsewhere, now and for the time being existing, provided that they have been canonically erected, as we have stated above, if, having attended devoutly at least five times the novendial supplication for expiation, which, according to the laws of the Institute, is customarily held each year in any church or oratory of the Institute, or even in another church or oratory where the aforementioned Sodality is established, and having truly repented and confessed, and having received Holy Communion, on one of those nine days, choosing for each of them, at their own discretion, the church or oratory as mentioned above, where they have attended this pious exercise, and having there, as we have said,

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prayed, we grant, likewise, the plenary indulgence for all their sins. We also grant that all and each of these indulgences and remissions of sins may also be applied, in the manner of suffrage, for the souls of the faithful Christians who, having been united to God in charity, have departed from this life. In the contrary, notwithstanding anything to the contrary. These present [decrees] are valid for the present, perpetual, and future times. We decree that the same faith shall be given to copies or printed examples of these present documents, signed by the hand of a public Notary and sealed with the seal of a person holding an ecclesiastical office, as would be given to the present documents themselves if they were exhibited or shown. Given in Rome, at St. Peter's, under the Fisherman's Ring, on the twenty-third day of March, in the year 1880, in the third year of Our Pontificate.

[Signed] CARD. MERTEL.

[*Latin ed. p. 591*]

S91 LETTERS concerning the indulgence of fifty days, which may be earned only once a day by kissing the feet of a bronze statue representing St. Peter. April 30, 1880. His Holiness Pope Leo XIII, in an audience granted on the 27th of the aforementioned month to the Most Reverend Cardinal, Secretary of Briefs, decreed that the indulgence of fifty days, granted to the faithful who devoutly kiss the feet of a bronze statue representing the Prince of the Apostles, St. Peter, and of a similar statue venerated in the Basilica of the Vatican, may henceforth be earned only once a day; and He ordered that this decree be communicated to the Holy Congregation of Indulgences. Therefore, the undersigned, obeying the commands of the Most Holy Father, hastens to inform Your Eminence and, through you, this Holy Congregation, and also seizes this opportunity to express his particular esteem. To His Eminence, the Most Reverend and Reverend Monsignor Pio DELICATI, Secretary of the Holy Congregation of Indulgences. Secretarium. Most devotedly, The Holiness of Our Lord Pope Leo XIII, having granted an audience on the 27th of the current month to the Most Reverend Cardinal, Secretary of Briefs, decreed that the indulgence of fifty days, granted to those faithful who devoutly kiss the foot of a blessed bronze statue representing the Prince of the Apostles, St. Peter, and similar to that which is venerated in the Basilica of the Vatican, may henceforth be earned only once a day; and He ordered at the same time that this decree be communicated to the Holy Congregation of Indulgences. Servant A. TRINCHIERI, Substitute. Most devotedly, Your Obedient Servant, A. TRINCHIERI, Substitute.

[*Latin ed. p. 592*]

592 DECREE OF THE HOLY CONGREGATION: By which a hundred days' indulgence is granted to those who recite the canticle "Magnificat anima mea Dominum."

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MOST HOLY FATHER, Reverend Father Dumoulin, having prostrated himself before Your Holiness' feet, humbly implores Your Holiness to deign to grant an indulgence to all the Christian faithful who shall have recited the canticle "Magnificat anima mea Dominum."

Our Most Holy Lord Pope Leo XIII, in an audience held on September 20, 1879, before the undersigned Secretary of the Sacred Congregation for Indulgences and Sacred Relics, mercifully granted an indulgence of one hundred days, to be gained but once a day, to all Christian faithful of both sexes, who shall have recited, at least with a contrite and devout heart, the canticle of the Blessed Virgin Mary, which begins with the words "Magnificat anima mea Dominum." This indulgence is valid forever, without any brief being required, notwithstanding any contrary provisions.

Given in Rome, from the Secretariat of the aforementioned Sacred Congregation, on September 20, 1879.

L. CARD. RANDI

A. Panici, Secretary.

[*Latin ed. p. 593*]

593 APPENDIX: DECRETA AUTHENTICA CONGREGATIONIS SACRORUM RITUUM EX ACTIS EIUSDEM MEXICANA.

From time immemorial, in the Metropolitan Church of Mexico City, it has been the custom for the Paschal Proclamation not to be chanted by a Deacon who serves at Mass, but by a subdeacon or some member of the clerical choir who is capable of singing. Since this custom might give rise to astonishment, the Most Reverend Dom Pelagius Antonius Lavastidas, the present Archbishop, humbly requested the continuation of this practice from the Sacred Congregation. The Sacred Congregation itself, having heard a report on this matter presented by the undersigned Secretary, has decreed as follows: For the sake of propriety, provided that the Cantor is in the order of the Diaconate, let it be so. Given on April 2, 1875.

Regarding the aforementioned, a faithful report was made to His Holiness Pope Pius IX by the undersigned Secretary, and His Holiness graciously consented to the transmission of the decree of the Sacred Congregation. Given on the 8th of the same month and year.

GRANADA. The present Master of Ceremonies of the Metropolitan Church of Granada presented to the Sacred Congregation of Rites the following question concerning the Feast of the Seven Sorrows of the Blessed Virgin Mary, which is observed on the Saturday before the Feast of Saint Joseph, the Patron of the Catholic Church, and enjoys the same rank in that Archdiocese: Is the Feast of Saint Joseph to be preferred? And, if so, should the Feast of the Seven Sorrows of the Blessed Virgin Mary be celebrated on the following Saturday, according to the General Decree of

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His Holiness Pope Benedict XIII of January 25, 1729?

The Sacred Congregation, after consideration by the undersigned Secretary, declared as follows: The Feast of Saint Joseph is to be celebrated on the 19th of March; the Feast of the Seven Sorrows is to be observed on the following Saturday, without being hindered by another feast of greater rank or dignity. Thus declared on September 4, 1875.

ERIEN. The Most Reverend Dom Tobias Mullens, Bishop of Erien, in the United States of North America, humbly requested a solution to the following doubts from the Sacred Congregation of Rites:

DOUBT I. If a priest celebrates without a minister, must he say the Confiteor twice before the Introit?

DOUBT II. After Communion in Mass, is the ablution of the fingers to be performed?

[*Latin ed. p. 594*]

594. Whether a priest ought to fold the purificator, or whether it should be spread out or not folded when placed in the chalice? DOUBT III. In the baptism of infants, the Rituale directs that the priest should take some saliva from his own mouth with his finger and touch the ears and nostrils of the infant; in the baptism of adults, the thumb is prescribed for this purpose. The question is whether, in the baptism of infants also, the thumb should be used, or rather the index finger, as literally explained by the rubric? DOUBT IV. In a pontifical Mass, after the Gospel has been sung, should the Bishop be incensed while still holding the thurible with both hands, or should he return the thurible before being incensed? DOUBT V. The Congregation of Sacred Rites, on August 27, 1707, declared that in a Mass in which only Subdiaconate or Diaconate is conferred upon one person, the Subdeacon or Deacon should not chant the Epistle or Gospel, as in general ordinations; the question is whether the Epistle and Gospel should be entirely omitted in this case, or whether at least they should be read by the promoter? Furthermore, the same Sacred Congregation, in reply to a letter from the undersigned Secretary, stated: To I. No. To II. Consult approved interpreters of the rubrics. To III. Affirmative to the first part; negative to the second. To IV. Negative to the first part: affirmative to the second. To V. Let a Decree be issued on the first day of March, 1831, concerning I to X. And thus it was written and ordered to be observed on September 4, 1875. X. QUEBEC. By an indult granted by the Sacred Congregation of Propaganda Fide on December 15, 1833, it was permitted in the churches of the Archdiocese of Quebec that Masses for the Dead with singing might be celebrated on days when the Feast of the Lesser Double occurs, with the exception of feasts that are to be observed, octaves, and privileged weekdays. Now, since this indult concerns Masses for the Dead with singing, but not on the day of death itself, nor on the third, seventh, and thirtieth days, nor on anniversaries, the present Most Reverend Archbishop of Quebec, in order

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to put an end to the various interpretations and customs existing in the same Archdiocese, humbly requested the Sacred Congregation to provide a solution to the following doubts: DOUBT I. Does the aforementioned indult extend to Masses with singing, even if there are no sacred ministers present, nor an absolution at the end? DOUBT II. Which and how many prayers should be said in such Masses? DOUBT III. Should the following sequence be sung in them? DOUBT IV. Should an absolution be given at the end of these Masses? Furthermore, the same Sacred Congregation, after hearing the opinion in writing of another of the Masters of the Apostolic Ceremonies, considered it advisable to respond to the proposed doubts: To I. Affirmative. To II. and III. Let a Decree be issued on the first day of August, 1854, concerning Briocen. To IV. At will; unless there is an addition.

[*Latin ed. p. 595*]

IX. The mandate of him who offered the alms. And thus, he responded on September 4, 1875. TO THE REVEREND PRELATE, APOSTOLIC PROPREFECT OF HOLSTEIN-SLEWIG: The Sacred Congregation of Propaganda Fide, concerning the celebration of Masses for the Dead, has granted a privilege, which is as follows: On each of the second days of feria, unless hindered by the Office, a Mass "for the Dead" shall be celebrated, with nine readings, or, if hindered, on the immediately following day. This privilege is granted to release the souls, according to the intention of the offerer, from the pains of Purgatory, as a form of suffrage. Since certain difficulties have arisen concerning this privilege, the aforementioned Reverend Prelate requested a solution to the following doubts from the same Sacred Congregation:

DOUBT I. Whether this office of nine readings, which the privilege prohibits, should also be considered to be that which is celebrated with a double rite?

DOUBT II. In the case where the feria is hindered on the second day, does the immediately following day, or the third feria, which is also hindered by the Office of nine readings (which often happens according to the arrangement of our calendar), completely nullify the aforementioned privilege for that week?

Regarding these doubts, the aforementioned Congregation, after hearing the report made by the undersigned Secretary, and after the vote of the Reverend Monsignor, Assessor of the Sacred Congregation of Rites, declared: In the case under consideration, the celebration of Masses for the Dead, other than Vigils, Ferias, and Octaves that are privileged, and feasts of precept, are hindered only by the occurrence of the Office of nine readings which enjoy a double major rite, or a double of the first or second class. And thus, it was declared on September 4, 1875.

OF THE MINOR ORDER OF SAINT FRANCIS OF ASSISI, CAPPUCCIN: The Reverend Father, Brother Cherubim of Gamerania, Minister

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Provincial of the Januensis Province of the Capuchin Order, humbly presented to the Sacred Congregation of Rites that, in the calendar of his Province, since the year 1829, the Offices of the Blessed Virgin Mary of Fortune and of Saint Zachary, the holy Precursor of the Lord, had been omitted, which had previously been in common use, because a precept had been prescribed for the entire Diocese of Januensis, and extended to both the clergy: first, by the Decree of Benedict XIV, dated August 6, 1751, and secondly, by the Decree of His Eminence, Joseph Cardinal Spina, Archbishop of Januensis, dated December 4, 1809, in which it was declared that the Most Holy Pope Pius VII, on November 22 of the same year, had, at his discretion, granted the requested concession of the Office and Mass of Saint Zachary, with all necessary and appropriate faculties. The omission of these Offices occurred only because of certain...

[*Latin ed. p. 596*]

APPENDIX X. 596. In the Decrees of the Congregation, it was declared that Regular Canons possessing their own calendar cannot use the diocesan calendar. Now, the aforementioned petitioner, due to this omission, proposed to the same Holy Congregation the following question for clarification: Whether the Capuchin friars of the diocese are obligated to recite the Offices of the Blessed Virgin Mary of Fortune and of Saint Zachary, the father of Saint John the Baptist? And, in the affirmative to this question, the petitioner requested from the aforementioned Congregation, firstly, a dispensation from the obligation of reciting the aforementioned Offices of the Blessed Virgin Mary of Fortune and of Saint Zachary for their religious brethren residing in monasteries located within the limits of the Archdiocese of Genoa. Secondly, in order to achieve greater uniformity in the calendar of the Province, he requested that all the Offices recited throughout the ancient territory of Genoa be extended to the monasteries of the Province located outside the territory of Genoa. Furthermore, the same Holy Congregation, having heard the report made by the undersigned Secretary, responded to the proposed question: affirmatively. Regarding the requests, it responded: firstly, negatively; secondly, with benevolence. And thus it responded and granted [permission] on the 4th of September, 1875. LUCIUS FERRARI, in his work, Bibliotheca canonica, iuridica, moralis, etc., under the heading "Insignia" [Emblems], after defending with authority and doctrine the right of the Holy See to grant emblems to canonical cathedrals or collegiate churches, in number 38, in the additions from another source, states: "It should not be omitted that the Holy Congregation, in Sorana on April 14, 1725, considered that minor emblems could be granted by the Bishop." Furthermore, the Archbishop of Messina, in the year 1819, on October 1st, by his own authority, granted the faculty to twelve priests of the parish church of the commune of Turrarum, then within the territory of Messina, now within the territory of Lecce, and to four priests, to wear

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albs of violet color in the choir and in processions and other ecclesiastical functions, and albs of black color. The aforementioned priests used this faculty until the year 1846, when they were prevented from using it due to the lack of a Royal Decree. The following is asked: 1. Does the term "minor emblems" include albs without hoods, of violet or black color, which are customarily worn by the clergy of a commune or church, commonly called "Ricettizie"? 2. And, if the answer to the first question is affirmative, can the Bishop grant to priests and clerics of a parish within his diocese, who are dedicated to the service of that same parish, the right to wear such albs? Can the privilege granted to the priests of the parish of Turrarum by the Archbishop of Messina be maintained? Furthermore, the same Holy Congregation, having heard the report made by the undersigned Secretary, considered it necessary to refer to the Decrees issued in Hydruntina on September 1, 1612, in Capuachen on July 12, 1628, and especially in Asculan and Cerinolien on May 6, 1872. And thus it responded.

[*Latin ed. p. 597*]

597 MX x. [A relic] was found and ordered to be preserved in the Diocese of Jaen on September 4, 1875.

CONGREGATIONIS SANCTISSIMI REDEMPTORIS: Reverend Father Leopold Dujardin, a priest of the Congregation of the Most Holy Redeemer, residing in Tournai, Belgium, stated that, in order to promote the devotion of the faithful towards the Blessed Virgin Mary, he had, some years ago, translated a small office dedicated to the same Blessed Virgin into the French language, and had printed that version together with the Latin text, observing the decrees issued by the Holy Congregation of Rites on this matter. However, having learned that the approval of the Holy Congregation of Rites is now required for any translation of the aforementioned small office, he humbly requested that the aforementioned version be approved. The Holy Congregation itself, having heard the report made by the undersigned Secretary, referred the matter to the Reverend Bishop of Tournai, who decided that the version used in the aforementioned edition should be considered approved by the Church (and, burdened by his own conscience on this matter, granted the speaker the faculty to publish that edition, or others that may be produced in the future). And thus, he responded and granted permission on September 4, 1875.

ARETINA: The Most Reverend Joseph Giusti, Bishop of Arezzo, humbly proposed the following questions to the Holy Congregation of Rites:

DUBIUM I: Does a church that has already been consecrated and subsequently converted into a burial place require a new consecration, or only a blessing, in order to be restored to divine worship, when the parish priest and the people wish to restore it to its use as a church, especially when a common cemetery has been formed around it?

DUBIUM II: There exists in Arezzo a church, called Santa Maria de Plebe,

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a monumental building that is being restored. It is very ancient, and a chapter is attached to it. In the restoration, a complete wall and apse must be constructed. The entire church has been provided with a new roof, and all parts that are lacking are being restored. Is it necessary to consecrate it again when it is to be restored to divine worship?

The Holy Congregation itself, having heard the report made by the undersigned Secretary, and having considered the written opinion of another of the Masters of the Sacred Ceremonies of the Apostolic See, responded as follows:

To I: In this case, the church should be blessed for greater decency and reverence.

To II: Affirmative, it requires a new consecration.

And thus, it responded and declared on September 4, 1875.

VIRDUNEN: The Most Reverend Augustine Hacquard, Bishop of Virduin, stated that the practice of incense being used for people and things had been in force in his diocese, and that, despite the introduction of the Roman liturgy, which had been in force in that diocese since 1862, this practice still continued.

[*Latin ed. p. 598*]

§98 APPENDIX X. He humbly requested that the Sacred Congregation of Rites declare whether the custom of not handling the thurible, but of tossing it with loose chains, could legitimately be maintained, given that this custom had been observed for so long. The Sacred Congregation itself, having heard a report made by the undersigned Secretary, responded as follows: "Although the custom mentioned above differs from the usage of the entire Latin Church, nevertheless, considering the local custom, it may be tolerated, provided that it cannot be reformed without causing astonishment to the faithful. And thus it responded on September 4, 1875: To the Reverend Mr. Vincent Matero, Bishop of Rubano, and Bituntina, who explained that in the city of Bituntina, from ancient custom, whenever a member of the confraternities is near death, the Adorable Sacrament is exposed for three days in a monstrance, in which the Host is clearly visible, and the monstrance is placed on the altar table, without a canopy, with twelve candles, and during this exposition, the priest and two or four laymen kneel and adore the Most Holy Sacrament, to which adoration almost no one from the people comes. This custom, which has always been observed in the aforementioned church, is an abuse, because it is done without due solemnity and is contrary to many decrees of the Sacred Congregation of Rites, and he forbade it. However, the moderators of the confraternities, not obeying that prohibition, have almost always exposed the Most Holy Sacrament in the manner described. Now, at this time, the confraternities themselves urgently request that this ancient custom be preserved in the

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future. Therefore, the Bishop, as the representative of the Sacred Congregation of Rites, humbly requests that it be declared: Whether it is permissible to allow this. Furthermore, on the octave of Corpus Christi, in the morning and evening, in the Cathedral Church, the Adorable Sacrament is carried from its own altar to the main altar, where it remains exposed during the Conventual Mass and the Canonical Hours. But before the Most Holy is carried to the main altar, and before it is returned from that altar to the tabernacle, a canon, holding the monstrance with the Most Holy, approaches the door of the presbytery, and sings the words: 'Ecce Panis Angelorum,' etc., and after singing the following verse by the chapter, the Most Holy is carried processionally to its own altar, where it is placed in the tabernacle with a blessing. Since no one in the church knows the decree that prohibits or allows this, it is requested whether such an ancient custom should be permitted or prohibited? The Sacred Congregation itself, referring to the undersigned Secretary, having heard the written petition, and after consultation with one of the Masters of the Apostolic Ceremonies, responded as follows: "To the first question: The Bishop may grant this petition, provided that what is contained in the Clementine Instruction regarding the manner of exposition is observed. To the second question: The prescription in the Ceremonial of Bishops and in the Constitution Accedimus, issued by Pope Pius XI, should be observed."

[*Latin ed. p. 599*]

On the 16th day of April, 1746. And the matter was reserved and separated on the 4th of September, 1875. POLICASTREN. The Most Reverend Lord Joseph Maria Cione, Bishop of Policastro, desiring that all things be performed in the sacred Liturgy according to the decrees of the Holy Congregation of Rites, humbly requests a solution to the following doubts:

DOUBT I. Whether it is permissible to erect an altar for celebrating the Holy Sacrifice of the Mass upon a projecting platform (tribuna) in a public chapel belonging to a lay person? This platform, which has the form of a tablet placed above the entrance to the chapel, is located on the wall of the chapel itself, and access to it is open both from the chapel through steps, and from the house of the patron through an interior door, with the right of foundation being reserved. The altar erected on said platform is situated in front of the larger altar, so that the priest celebrating at it has his back to the larger altar.

DOUBT II. Whether such platforms or other openings that face from the houses of patrons into chapels belonging to lay persons, as is to be presumed, at the foundation line and always permitted or tolerated by Bishops without any enclosure, whether of wood or iron, or any other barrier that prevents people from being seen, can be tolerated, lest there be room for innovations that might excite murmurs and complaints?

DOUBT III. Whether, on the occasion of some solemnity, if a machine

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with lights is placed near the main altar, extending up to the arches of the church, and a baldachin is added to the machine for displaying the Blessed Sacrament, whether candles made of stearin wax or of another purified material, similar to beeswax, can be used, except for those that are on the level of the altar and immediately in front of the baldachin where the Blessed Sacrament is exposed.

Furthermore, the Holy Congregation, having heard the report made by the undersigned Secretary, and also the opinion of another of the Masters of the Sacred Ceremonies, having approved the proposed doubts, responded as follows:

To I. The Reverend Bishop should inquire whether there exists, in this matter, any legitimate privilege in favor of the patron, duly proven by certain ecclesiastical documents; and if nothing of the kind is found, the altar erected upon the platform, as described in the case, is to be prohibited.

To II. Wherever it can be done conveniently and without causing scandal, it is advisable to add enclosures to such platforms.

To III. The decrees of Massilia, dated the 16th of September, 1843, state as follows: In the presence of several Bishops and many candle makers, and with the reference of the Most Reverend and Most Illustrious Cardinal Cosimo de Corsi, a response was given: Consult the rubrics, and in the second division, dated the 7th of September, 1850, in response to the prayers of the Reverend Bishop of Divion, regarding the continued use of stearin wax, it was stated: Nothing is to be changed.

And thus, it was responded and declared on the 4th of September, 1875.

[*Latin ed. p. 600*]

600 APPENDIX X. BAYONNE. The present Master of the Sacred Ceremonies of the Cathedral Church of Bayonne, in order that all things may be performed properly and according to order in ecclesiastical functions, has humbly requested the Sacred Congregation of Rites to provide a solution to the following doubts:

DOUBT I. Whether, when celebrating Mass with singing without the assistance of ministers, the celebrant may use more than two candles, and whether the minister who turns the pages, covers and uncovers the chalice, pours in the wine and water, covers and uncovers the chalice again as the occasion requires, and also wipes it after Communion, and adorns it with its ornaments, must perform all these actions himself, or whether he must celebrate as any other simple priest would, performing all the aforementioned actions himself and not with the help of a minister?

DOUBT II. Regarding the reverence due to the Bishop within his jurisdiction, the Ceremonial of Bishops, Book I, Chapter XVIII, No. 3, prescribes the following: "Regularly, whenever the Canons pass directly before the Bishop, they should incline their head and shoulders deeply; while Benefi-

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ciaries and other members of the clergy should kneel when passing, both before the Altar and before the Bishop." "To which place," says Catalanus in his commentaries, "should the Mansionaries also kneel, as well as the other members of the clergy? For it is only the prerogative of the Canons, who, because they are advisors to the Bishop and members of his senate, do not kneel before the Bishop, but incline their head and shoulders." Therefore, the question arises: whether honorary Canons should incline their head and shoulders or kneel before the Bishop?

DOUBT III. It is written in the Ceremonial of Bishops, Book II, Chapter III, No. 1: "When a weekly Canon is assisted by four or six priests from the same Church, they are not, however, Canons." The question is whether this exception should extend to honorary Canons?

DOUBT IV. And if they are able to provide assistance in such a case, should they wear a cope over the rochet when using it, or over the cotta?

DOUBT V. If the former, should they take the amice?

DOUBT VI. To the extent that it is declared that honorary Canons wearing copes can assist the Canon celebrating at Vespers, should they incense after the celebrant, before the titular Canons incense?

DOUBT VII. According to the Decree of the Sacred Congregation of Rites of August 12, 1854, in Briocen, only the Bishop has the right to give the blessing after Mass on the day of his death, even if he has not celebrated it, and by the Decree of July 21, 1855, in Briocen, it was declared: "It is fitting that the absolution be given by the priest who celebrated the Mass, and not by another different priest." Since there is not a unanimous opinion among the priests of the Diocese of Bayonne regarding the meaning of these declarations, the orator earnestly requests the Sacred Congregation to deign to provide a clear and certain explanation, so that the freedom to err may be removed. The Sacred Congregation itself, with the reference of the undersigned Secretary,

[*Latin ed. p. 601*]

ix x. Having heard the request in writing from another of the Masters of the Ceremonies of the Apostolic See, and having considered the questions proposed, he decided to respond: To I. Affirmative. To II. Affirmative regarding the first part, negative regarding the second. To III. Affirmative. To IV, V, and VI. See III. To VII. It is fitting that absolution be granted by the celebrant himself, according to the decree in Briocen, on July 21, 1865, unless a Bishop is present, according to other decrees. And thus he responded and ordered that it be observed on September 25, 1875.

TO THE CONGREGATION OF THE TRAPPIST ORDER OF THE CISTERCIAN ORDER, FROM RANCÈ. Father Jerome, General Procurator of the ancient Observance of the Most Blessed Virgin of Trappe, humbly requested a solution to the following questions from the Congregation of

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Sacred Rites:

QUESTION I. In this Order, four annual commemorations of the dead are celebrated each year, which are fully observed with singing at Vespers, Matins, Lauds, and Mass. According to the rubrics for celebrating these commemorations, days must be assigned that are not impeded by any feast day or even a feria with its own Mass. Is it permissible to assign a day that immediately follows a feast day or a Sunday, so that the Vespers of the Dead are sung after the Vespers of the preceding feast day or Sunday, as is done in 60*, for the commemoration of all the faithful departed on the feast of All Saints?

QUESTION II. In this same Order, are the canonical hours concluded with the Antiphon of the Blessed Virgin (Spiritus Sanctus)? By accepted custom, the Our Father and the Hail Mary are added, although this is not found prescribed anywhere in the rubrics. Is it permissible to omit the Our Father and the Hail Mary?

QUESTION III. According to the Missal of this Order itself, in the daily Masses for the Dead, the prayer "Deus cui proprium" is said first. Is it necessary to follow the Missal of this Order, notwithstanding the decision of the Sacred Congregation of Rites, according to which the prayer "Deus qui inter Apostolicos" should be said first?

QUESTION IV. Sometimes, in our monasteries, external priests are invited, for the sake of honor, to say the Conventual Mass, whether it is celebrated with singing or without singing. Can these priests, when celebrating with the community present, use the Missal of the Order and say the Masses permitted to our religious?

The Sacred Congregation itself, with the reference of the undersigned Secretary, having heard the request of the Most Reverend I), the current General Procurator of the Cistercian Order, decided to respond to the questions proposed: To I. Affirmative. To II. It is a pious custom, which can be maintained where it flourishes. To III. Affirmative, or it is necessary to follow the Missal of one's own Order. To IV. Affirmative, or it is necessary. And thus it responded on September 25, 1875.

[*Latin ed. p. 602*]

602 APPENDIX X. OF THE CISTERCIAN ORDER IN MEXICO. Father Bruno, Abbot of the Cistercian Monastery, commonly known as Mont Melleray, in Ireland, presented a case to the Congregation of Sacred Rites, stating that the sacristan of the church attached to the monastery had found stones that covered the relics, which had become loose, and that the mortar holding them in place had deteriorated due to humidity. He considered it appropriate to reattach these stones, using new mortar; however, as he himself asserts, he did not in any way touch or move the sacred relics. When a doubt arose as to whether these altars should be

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considered desecrated, the aforementioned Abbot requested a suitable declaration on this matter from the same Sacred Congregation, and, in the event that they were considered desecrated, he requested that he himself be allowed to perform their consecration, as this privilege has been granted to Cistercian Abbots. A few months ago, the Archbishop of Mexico received responses from the Most Reverend Bishop of the Diocese of Montalban in France, dated August 14, 1858, which were given by the Sacred Rites Congregation and are described by Gardellini under No. 5275. The aforementioned Archbishop, for the purpose of obtaining a suitable declaration, humbly proposed the following questions to the same Sacred Rites Congregation: The Sacred Congregation, after hearing the vote of another of the Masters of the Apostolic Ceremonies, has responded, with due deliberation: If the tomb has not been opened, but has only been reinforced with new cement, then the answer is negative; otherwise, the answer is affirmative, and so it was decreed on September 25, 1875. The aforementioned matters were faithfully reported to His Holiness Pope Pius IX by the undersigned Secretary. His Holiness, approving the judgment of the Sacred Congregation, granted a dispensation, as may be necessary. On the 30th day of the same month and year. QUESTION I. Whether the aforementioned responses given to the Most Reverend Bishop of the Diocese of Montalban are so general that they apply to all dioceses, even those in which there are well-known customs to the contrary? And, if affirmative, is asked: QUESTION II. Whether it is permissible for the established practice in this Archdiocese to continue, according to which parish priests or other priests, with the permission of the parish priest, attend marriages during the prohibited time, solely for the purpose of privately uniting the spouses, but not to solemnly bless them, without, however, seeking permission or dispensation from the Ordinary? QUESTION III. Whether the solemnities of marriage may be permitted during prohibited times, provided that they take place not in the parish church or in another public church where there is a large gathering of people, but in a chapel that can be considered as a private oratory, even if it is otherwise attached to the parish church or to a public building?

[*Latin ed. p. 603*]

Concerning weddings: It has sometimes happened that, for fear that the parents of the bride and groom, relatives, or other pious persons attending the marriage might consider it merely a profane affair, containing nothing sacred, unless solemn blessings, commonly called "relations," are added; and furthermore, lest, unless the bride and groom are solemnly blessed when they contract marriage, they might afterwards, or perhaps never, approach the parish priest to receive a solemn blessing from him? However, if these reasons were not considered by the most wise judgment of the Sacred Congregation for Rites to be sufficiently solid or weighty to warrant solem-

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nizing marriages in the aforementioned manner, the following question is raised:

QUESTION IV. Would they at least suffice to allow the betrothal ceremonies, or wedding celebrations, to be held after the prohibited time for the couple, indeed, to encourage them to hold such celebrations, as has been the custom from time immemorial?

The Sacred Congregation, having heard the report made by the undersigned Secretary, and also the opinion of the Reverend Father, Promoter of the Holy Office, decided that the following answers should be given to the questions proposed:

To I: Affirmative, and that the contrary custom should be eliminated as an abuse.

To II: Negative, unless the permission of the Archbishop is obtained.

To III: Negative in all cases.

To IV: Affirmative, or it is possible to give the nuptial blessing, provided that the bride and groom have not previously cohabited in the same house.

And thus it was decided and ordered to be observed on September 25, 1875.

TO THE MOST REVEREND LORD, AS BROTHER:

Regarding the Decree of this Sacred Congregation of July 29th of the current year, in which, through the benevolence of the Most Holy Pope Pius IX, privileges were granted to eight Honorary Canons of the Cathedral Church of Padua, chosen by Your Eminence, similar to those granted to Apostolic Notaries, and especially for the decorum of the sacred functions, the following clause was also included, namely, concerning the consent of the Chapter.

Since the Canons interpret this clause in a different way than Your Eminence does, it seemed fitting to Your Eminence to seek a declaration from the aforementioned Sacred Congregation for Rites regarding this matter.

The Sacred Congregation, having heard the report made by the undersigned Secretary, and also the opinion of the Reverend Father, Promoter of the Holy Office, considered it appropriate to inform Your Eminence that, from the inclusion of that clause concerning the consent of the Chapter, no law was imposed regarding the nomination of Honorary Canons, and therefore, the nomination should be carried out according to the established legal process and according to the custom generally observed in their election.

Rome, September 25, 1875.

TO THE MOST REVEREND LORD, AS BROTHER, THE BISHOP OF

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PADUA.

LUCERINA: The sodality called "of the Holy Cross" in the city and diocese of Lucerna, canonically established since the year 1500 in the former church of the Brothers.

[*Latin ed. p. 604*]

604 APPENDIX X. The Order of Friars Minor Conventual of Saint Francis, with the title of the Sorrowful Virgin, established by Apostolic Letters in the form of a Brief dated July 4, 1821, and aggregated to the Archsodality of the Most Holy Trinity of the City, which existed since the year 1610 and was subsequently elevated to the rank of Archsodality by Apostolic Letters, also in the form of a Brief, dated March 13, 1855, presented the following to the Congregation of Sacred Rites: namely, that the aforementioned Sodality, in order of its founding, was either the first or, at the very least, the second. It is true that other Sodalities existing there had gained precedence over time, because they had been elevated to the rank of Archsodality before it. However, since the Archsodality of the Sorrowful Virgin has also attained this rank, and consequently they are now in equal standing, the aforementioned Sodality humbly requested that precedence be granted to it, which is due to it by reason of its founding. The Sacred Congregation, therefore, after hearing the opinion of the Most Reverend Bishop of Lucerne regarding the information and the request, as well as the opinion of the Reverend Promoter of the Holy Faith, declared: "The precedence of the aforementioned Archsodality begins from the date of the publication of the aforementioned Apostolic Letters, March 13, 1855." And thus it declared and ordered to be observed on September 25, 1875.

TURIN. The Most Reverend Lord Laurence Gastaldi, Archbishop of Turin, presented to the Sacred Congregation of Bishops and Regulars that, in the city commonly called Savigliano, within the boundaries of his Archdiocese, there had existed for many centuries an Abbey of Monks of the Order of Saint Benedict, with a parish church under the title of Saint Peter. The Monastery having been suppressed by the laws currently in force, and the community of Monks dissolved, only the parish remained, and a part of the Monastery was assigned as a dwelling for the parish priest and his assistants. In the past year, a cleric from the aforementioned Order of Saint Benedict, who was already serving as parish priest at the time of the suppression, and who continues to serve in that capacity, was elected Abbot of the aforementioned Church by the Superiors of the Congregation of Cassan in Italy. Since the Monastery no longer exists and the monks are dispersed, the aforementioned Reverend Archbishop of Turin was asked whether the aforementioned Abbot, who has not yet received the abbatial blessing, can perform abbatial functions in the aforementioned Church, as the Abbot for the time being of that Monastery had the right to do before

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the suppression. The Sacred Congregation, after having transmitted the aforementioned requests for a suitable resolution to the Congregation of Sacred Rites, and after hearing the report made by the undersigned Secretary, and after mature deliberation and consideration, decided to respond as follows: "By the illegitimate suppression of the Monastery of Saint Peter, nothing has been changed regarding the right to perform abbatial functions in the Church attached to it." And thus it responded and declared on December 17, 1875.

[*Latin ed. p. 605*]

M X TRICARICEN. The Most Reverend Lord Bishop of Tricarico, having humbly requested a solution to the following doubt from the Congregation of Sacred Rites, namely: Whether it is permissible, on weekdays, on Fridays, and on the Holy Sabbath, before Mass, to hear the confessions of the faithful in cathedrals and other parochial churches, and whether the contrary custom, which disapproves of this, should be maintained? The aforementioned Sacred Congregation, after hearing the opinion in writing of another of the Masters of the Apostolic Ceremonies, and with the reference of the undersigned Secretary, decided to respond: Affirmative, and the contrary custom should be entirely disapproved. And thus it responded on December 17, 1875.

GADITANA. Most Reverend Lord, as a brother, the Sisters of the Piarist Schools residing in this city of Gadiz have, with the consent of Your Eminence, requested that it be permissible, once a month, to have the Exposition of the Blessed Sacrament in their church, even though the sacred ceremony sometimes begins after sunset and ends at night. The Sacred Congregation, having heard the report of this request made by the undersigned Secretary, has decided to respond: It is within the power of the Most Reverend Ordinary of the Diocese to grant the Indult mentioned above; therefore, Your Eminence should provide, according to your judgment and prudence, in this case.

605 x. Rome, December 17, 1875. To the Most Reverend Lord, as a brother Bishop of Gadiz.

SAGIEN. The Most Reverend Lord, Charles Frederick Rousselet, Bishop of Sagien, presented to the Congregation of Sacred Rites that the parochial church of the place commonly called Marchemerison was built in the eleventh century. According to certain signs, this church was consecrated; indeed, during the recent restoration, some crosses, of the type used in consecrations, were found painted on the walls. However, a doubt arises because in the main altar, which appears to be fixed and made of a single stone, there are no traces of consecration, no crosses, and no tomb for the deposition of relics. Therefore, a portable altar, already adorned with wooden carvings, has been added to this stone altar. As the restoration of this church is coming to an end, the aforementioned Bishop

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humbly requested a solution to the following doubts from the same Sacred Congregation, namely:

DOUBT I. Should the aforementioned church be considered as consecrated?

DOUBT II. Is it permissible to paint crosses on the walls again?

DOUBT III. Should the main altar be re-consecrated?

The aforementioned Sacred Congregation, with the reference of the undersigned Secretary, after hearing the opinion in writing of another of the Masters of the Apostolic Ceremonies,

[*Latin ed. p. 606*]

606 APPENDIX X. Regarding the matter of parishes, it has been decided to respond as follows to the proposed questions: To I. Negatively. To II. Negatively, unless the Church consecrates it: but the Sacred Congregation urges the Bishop, as soon as possible, to effect this consecration, especially when dealing with a parish church. To III. Affirmatively. And thus, it was decided on December 17, 1875. SAGIEN. The Most Reverend Lord Charles Frederick Rousselet, Bishop of Sagien, presented the following to the Congregation of Sacred Rites: In his diocese, there were two neighboring parishes, one under the title and patronage of Saint Walburga, the other of Saint Columba, Virgin and Martyr, whose inhabitants were so united that they appeared as a single parish. Both churches were very small and in a state of ruin, and furthermore, divisions often arose among the inhabitants. Ten years ago, with the consent of all, the civil authorities united the two into a single community. With the gradual calming of the minds of all, the construction of a beautiful church, which had previously been impossible, became easy. This church, located in the territory of the parish of Saint Walburga, was recently blessed under the titles of Saints Walburga and Columba. However, although there is now a single civil community, two parishes still remain, each with its own administration, and two pastors live together, one of whom is considered, in every respect, the vicar of the other. Having explained this, the Bishop, the speaker, humbly proposed the following questions to the same Sacred Congregation regarding the office and function of titles and patrons, in order to resolve any doubts: QUESTION I. Should Saint Walburga, Virgin, who is commemorated on May 1st, and Saint Columba, Virgin and Martyr, who is described in the Martyrology on December 31st, be considered equally as titular saints and patrons? QUESTION II. If so, which feast day should be recited and celebrated, and on what day? QUESTION III. But if Saint Walburga remains the principal titular saint and patron with the proper office, should Saint Columba be considered a less principal titular saint and patron with a double office? QUESTION IV. What should be said in the prayers? The aforementioned Sacred Congregation, with the reference of the undersigned Secretary, after hearing the opinion of another from the

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Masters of the Sacred Ceremonies, and after mature deliberation, decided to respond as follows: To I. Affirmatively. To II. The feast of Saint Walburga, Virgin, shall be celebrated on May 1st, with a double rite of the first class, with an octave, the office and Mass of the Common of Virgins being recited first, and then transferred to the first free day as a fixed feast, in place of the office of the blessed Apostles Philip and James. The feast of Saint Columba, Virgin and Martyr, is permitted to be celebrated on the 30th of the month, instead of the 31st.

[*Latin ed. p. 607*]

On December 9th, it was determined to assign, along with the office and Mass of the common feast of the Virgins and Martyrs, a prayer at the first rank, and the "Deus" prayer, also of the first class, but without an octave, according to the time. Regarding point III in the first document, let there be a commemoration of both [the Virgins and Martyrs] together, both in Lauds and in Vespers, with the Antiphon, and the prayer, as in the common office of many Virgins and Martyrs. And thus it was written, declared, and ordered to be observed on December 17, 1875.

ALBEN. To the Provinces of Piedmont and Venice: The Ordinaries of Albenga and Venice, having inquired, it was decided to add the following prayer after Mass: "Benedetto il Ssmo Cuore di Gesù." The Sacred Congregation for Sacred Rites has decreed: It is not permissible to add a new prayer to be recited in honor of the Most Sacred Heart of Jesus after the sacrifice of the Mass, and especially because in the prayer recited in honor of the Most Holy Sacrament, there is, in a certain way, contained what is proposed to be added. December 17, 1875.

ASCULANA IN PICENO: The Reverend Joseph Bianconi, Parish Priest of the town of Poggese, within the limits of the Diocese of Ascoli, stated that on September 4th of the year 1873, he began to take possession of the parish church of the aforementioned town, which he found completely lacking in sacred vestments and furnishings. Since it is quite impossible for him to purchase new ones made of linen or canvas, as prescribed by the rubrics and decrees of the Sacred Congregation for Sacred Rites, due to a lack of income; and since he possesses a large quantity of cloth made from nettles, he humbly requested that the same Sacred Congregation permit him to use this cloth to make the aforementioned sacred vestments and furnishings for the use of his parish church.

The Sacred Congregation for Sacred Rites, having heard the report made by the undersigned Secretary, and also the opinion of the Most Reverend Bishop of Ascoli regarding the request, has decreed: Negatively, and the General Decree of May 15, 1819, must be observed. And thus it was written and ordered to be observed on December 17, 1875.

ORIOLEN: The Most Reverend Bishop of Oriola, in order that all things may be done in an orderly manner and according to the rubrics in the Con-

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gregation instituted recently in the city of Alon, which is commonly called the "Congregación de la Guardia y Oración al Ssmo Sacramento" [Congregation of the Guard and Prayer to the Most Holy Sacrament], humbly requested a solution to the following doubts from the Sacred Congregation for Sacred Rites:

DOUBT I. When the clergy proceeds from the sacristy to the altar to expose the Most Holy Sacrament, may the lay members of the congregation also join them, carrying candles?

[*Latin ed. p. 608*]

608 APPENDIX: In such a case, where should they proceed?

DOUBT II: What place should the lay members occupy when they are present at processions of the Most Holy Sacrament?

DOUBT III: Can lay members enter the Presbytery, and there dedicate some time to prayer?

DOUBT IV: Is the entrance into the Presbytery, of which mention is made in the preceding Doubt, permitted even when the Divine Office is being celebrated in the Choir?

And the Sacred Congregation, with the reference of the undersigned Secretary, having heard the written opinion of one of the Masters of the Sacred Ceremonies, having approved the doubts presented, responded as follows:

To I: Affirmative, to the first part; to the second, they should proceed before the clergy.

To II: Before the secular clergy, and the regular clergy, and also before any confraternities, if they are present, wearing the sac.

To III: Negative, but outside the Presbytery, a bench is provided where the lay members can stand during the time of prayer.

To IV: This is provided for in the third. And thus it was decided and ordered to be observed on January 22, 1876.

VICENZA: The Reverend Doctor Philip Lumà, Beneficiary of the Cathedral Church of Vicenza, having been appointed by the Most Reverend Patriarch of India as the Parish Priest for the protection of the aforementioned troops of that city, and for the troops passing through and temporarily staying there, and since the church in which the Parish Priest performs his duties is dedicated to God in honor of Saint Margaret, Virgin and Martyr, humbly requested that it be declared: Whether he is obliged to perform the Office and celebrate Mass on the feast of Saint Margaret, according to the rites proper to the titular feast, when in the Diocese only a commemoration of the same Saint is celebrated?

The same Sacred Congregation, having heard the report made by the undersigned Secretary, declared: The Parish Priest is to conform in the recitation of the Canonical Hours and in the celebration of the Holy Sac-

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rifice of the Mass to the Calendar of the Church in which he performs his duties: observing the rubrics. And thus it was declared on January 22, 1876 (1).

DE ZACATECAS: The Most Reverend Doctor Joseph Maria a Refugio Guerra, Bishop of Zacatecas in the Republic of Mexico, in North America, proposed the following doubt to the Sacred Congregation of Rites, namely: At what hour is it permissible to begin the private recitation of Matins with the Vespers of the day preceding: since in these regions, not all have the same opinion on this matter.

The Sacred Congregation of Rites, with the reference of the undersigned Secretary, having heard the opinion of another of the Masters of the Sacred Ceremonies, decided to respond as follows: The private recitation of Matins with the Vespers of the following day can begin when the sun is halfway between noon and sunset. And thus it was decided on March 16, 1876.

(1) The decree that follows is found in the Gardellin Appendix, Volume IX, page 318.

[*Latin ed. p. 609*]

609 FROM THE SACRED CONGREGATION FOR THE CULT OF THE SPIRIT, September 20, 1878. Through a summary of prayers, a COMPENDIUM OF FACTS. The Bishop C. presented to this Sacred Congregation, on September 11, 1877, a supplication in writing: "In the year 1872, I published a disciplinary Constitution for the entire Clergy of the City and Diocese, in which, among other things which I considered useful and necessary, I also deemed it advisable to prescribe the following: All are well aware of the great utility, indeed the necessity, for the spiritual life and for maintaining and fostering ecclesiastical discipline, of spiritual exercises, in which Priests are accustomed to diligently participate each year. Therefore, I desire that all and each Priest, within a space of four years, at least once, participate in these exercises, which are commonly held in a designated house. I believed, and still believe, that I have the right to do this, since all Priests, without any exception, should participate in these spiritual exercises, which are constantly directed by the Fathers of the Society of Jesus, without any expense whatsoever, since that pious house possesses such ample resources, derived from the generosity of former Bishops, that, after deducting all expenses for the six days of exercises, approximately one thousand five hundred livres remain each year, which, according to the intention of the founders, are converted to the benefit of the Seminary."

[*Latin ed. p. 610*]

610 OF SPIRITUAL EXERCISES » except that a period of four years has elapsed since these exercises were instituted. Now, however, certain Priests, endowed with knowledge and piety, have raised the question as to whether

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the Bishop possesses the authority to establish the aforementioned regulation, and some doubt, while others even deny, this, even though they themselves have complied with it... Therefore, in a matter so important, in order to remove any doubt, I considered it necessary to consult this Sacred Congregation, regarding the following two questions:

1. Can the Bishop, by his ordinary authority, impose the aforementioned regulation upon the entire clergy of his Diocese, requiring its fulfillment within a period of four years, when all Priests, individually and collectively, incur absolutely no expense?

2. Assuming a positive answer to the first question; can the Bishop impose a monetary penalty upon Priests who, without a legitimate reason, refuse to participate in the spiritual exercises, of which we have spoken above?

SYNOPTIC DISCUSSION ON THE RIGHTS OF THE CLERGY. Regarding the first question, it appears that the Bishop cannot issue such a regulation. Indeed, the Bishop must certainly oversee the clergy, so that they may lead a virtuous life, but it does not seem that he can impose upon them, by law, matters pertaining to spiritual perfection. Therefore, as we shall discuss below from the Encyclical Letters of this Sacred Congregation, only what is intended to encourage, and not to compel by law, is permitted, in order to encourage Priests to engage in spiritual exercises. Furthermore, if Bishops were once granted the power to enact such laws, an undesirable consequence would arise, namely that less fervent individuals who maintain a virtuous life would have the opportunity for boredom, murmuring, and contempt, and thus more harm than benefit would be obtained from these laws. Regarding the second question, even assuming that the Bishop has the authority to enact such laws, it would never seem that the Bishop could impose monetary penalties upon those who refuse to participate in the spiritual exercises. Indeed, these exercises are prescribed for the sake of spiritual good.

[*Latin ed. p. 611*]

SPIRITUAL EXERCISES 611. It is necessary to provide for the spiritual exercises of clerics; but if they are compelled to do so under penalty, then such exercises become a coerced spiritual work; yet experience shows that coerced spiritual works bring no benefit. For if anyone performs them without an internal disposition of the soul, or with a contrary will, he begins to dislike those exercises, to despise them, and derives no progress from them. Furthermore, penalties can be imposed by ecclesiastical authority on those who commit a crime of some importance; but to omit at least some spiritual exercises, which are neither a necessary work for eternal salvation, nor can be anything other than a work done deliberately, is certainly not a sin that deserves to be punished.

RIGHTS OF THE BISHOP. On the other hand, it must be noted that the

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Bishop in his diocese can establish ecclesiastical statutes or laws which he deems appropriate for the proper governance of souls and for the good, to which even priests, even if unwilling and reluctant, are bound to obey, *S. C. in Asc. 11 Jul. 1767 § 4, Bened. XIV de Syn. Dioc. lib. 18 cap. 1 n. 3*, provided that these do not contradict common law, *Cap. institutionis 7> cap. 25 qu. 2 et cap. quod,super his 9 de maiorit, et obediente Bouix de Episc. vol. 2 cap 5, Reiff, tit. 2 lib. 1 Decret, n. 69*. Indeed, the statute of which we speak does not contradict common law, but is most in conformity with it. It is read in the encyclical letters addressed to all the Ordinaries of Italy by the Sacred Congregation, given by order of the Supreme Pontiff on February 1, 1710, as reported by Ferraris, *v. Exercitia - ibi -* "Since long experience has shown that it is most conducive to maintaining and preserving the dignity and sanctity of the priestly order, that ecclesiastical men should sometimes devote themselves to spiritual exercises..." His Holiness desires that this pious and salutary work of spiritual exercises be widely practiced and flourish everywhere, and therefore earnestly exhorts all... Bishops of Italy... to strive to promote it in their respective dioceses as much as possible, and to encourage (priests) to undertake these exercises, at least once a year, in the houses of the religious Society."

[*Latin ed. p. 612*]

612 OF SPIRITUAL EXERCISES » of the Society of Jesus, or of Priests, for the Mission... » Therefore, since the Bishop can establish laws, and since this law is most fitting for the good of souls and for the will of the Supreme Prince, it seemed that the first question should be answered with a positive response; all the more so because, for the performance of spiritual exercises, no expense would be borne by the clergy. The same must be said regarding the second proposition. For it cannot be doubted that the Bishop has the power to impose penalties for his laws. For, according to the common opinion of the Doctors, a law necessarily has a connection with the sanction attached to it, since a law that lacks all sanction is generally rendered useless and ineffective. With these considerations, it was left to the Most Reverend Fathers to decide what should be answered in this matter. RESOLUTION. After careful deliberation, the Sacred Congregation, on September 20, 1878, decided to respond as follows: To 1. Affirmative. To 2. Affirmative, with a prior paternal admonition. FROM WHICH YOU MAY GATHER: I. That Ordinary authorities, for the good of souls, and for the proper governance of them, can enact laws, both in the Diocesan Synod, and outside of it, even under penalties; provided that such laws do not contradict common law (1). II. That a law without sanction cannot be conceived, according to the common opinion of the Doctors; for a law necessarily has a connection with sanction, lest it become useless or ineffective, and be violated with impunity. III. Hence, it is clear that Bishops have the power to enact laws in their Diocese, so that even those laws or statutes (1) Since

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Bishops are superiors to priests in power of jurisdiction, they can enact laws to which even unwilling priests are compelled to obey. Hence, Gerson said, in *De Potestate Ecclesiae*, Opera, part. 1, book 1, page 30, "power," and St. Cyprian, hinting at this in Epistle 27 to the Lapsed: "Since from Christ the Lord, through time and succession, Bishops have that coercive power, that they to whom obedience is due must obey the Bishops," it is the coercive power of the Church that is nearest to even the unwilling. *The ecclesiastical power of jurisdiction (the right to judge or decide concerning another) runs through the order and reason of the Church, so that the Church, through Bishops, is constituted to direct another, even unwillingly, to eternal blessedness... Truly, jurisdiction is said to be the power to direct subjects to the end.*

[*Latin ed. p. 613*]

613. Exercitia Spiritualia. Nisi ob rem, nullus poenam aut sanctionem aliquam addere poterat adversus eos qui renuunt ad oboediendum.

IV. Facile patet quod lex, qua Episcopus presbyteros suae Dioecesis iubet sacris interesse exercitiis, neque fines ordinariae potestatis excedit, neque iuri communi adversatur, sed potius eidem apprime consona est.

V. Romani Pontifices, pro viribus, in suis Constitutionibus praescribere sacra haec exercitia; neque frustra, quia sacerdotes omnes cum praebeant exemplum operum in doctrina, in integritate, in gravitate, compertum est nihil aptius ad ordinis sacerdotalis sanctimoniam eosdem perducere, quam praxis aliquando vacandi spiritualibus exercitiis.

VI. In themate dum S. C. C. auctoritatem in Episcopo recognovit legem condendi, quoad sacra exercitia, legique sanctionem adiiciendi, commonet tamen ut poenam paterna praecedat admonitio, ne rigor sed lenitas renuentes ad spiritualem ducat perfectionem.

DISPENSATIONIS AB IRREGULARITATE

Die 15 Februarii 1879

Per summaria precum.

COMPENDIUM FACTI.

Vincentius N., dioecesis F., unum supra viginti annorum in aetate constitutus, optimis moribus et pietate imbutus, nec non acri ingenio et diligentia ad studia praeditus, vehementer exoptavit ecclesiasticae militiae adscribi, ad quam etiam a tenera aetate proclivem sese intendit. Ab hoc voto tamen aegre repellitur ob visivae facultatis omnino in oculo dextero defectum et debilitatem in sinistro, ita ut etiam auxilio optici instrumenti nonnisi ad perbrevem distantiam legere valeat. Hinc ut, quod ordinario ei interdicitur iure, gratia saltem consequatur, supplicem Sanctissimo, quo sospite laeta-

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mur, obtulit libellum.

[*Latin ed. p. 614*]

614 REGARDING A DISPENSATION FROM IRREGULARITY, explaining the permission granted concerning the aforementioned irregularity, and the possibility of his initiation into all orders; and his prayers, as consonant with truth, are commended by the Bishop. The Master of Ceremonies reported that the young man exhibited a certain abnormality, both due to a weakness of his visual faculty and due to his height; this causes him to have to bend considerably over the altar in order to read the canon and other prayers of the Mass, and also due to more frequent movements of the head, as his eye shifts from one side to the other while reading. However, the physician affirmed that the orator's visual faculty could not be further diminished, but that it would likely remain in this state for a long time. The physician's testimony was reviewed and signed by the Bishop and the orator.

A SYNOPTIC DISCUSSION. WHAT IS AGAINST THE ORATOR. It is certain that the orator suffers from this infirmity, and labors under an irregularity. For in the old law, it was forbidden that those who were physically infirm, especially those with defects of the eyes, should offer sacrifices to God, as is evident from Leviticus 21:18: "And the Lord said to Moses, saying: Speak to Aaron, and say to him: Take unto thee thy brother Aaron, and his sons with him, from among the children of Israel, that they may minister to me in the priesthood." However, this law, being merely ceremonial, became obsolete with the beginning of the Church, as Thomas Aquinas states in *Summa Theologica*, Second Part, First Book, Chapter 78, numbers 3 to 6. Nevertheless, as time progressed, the Holy Pontiffs, having learned through experience that those who are physically infirm cannot, as is fitting, minister in the orders, offer the sacrifice of the Mass, and perform all other things pertaining to the worship of God without causing wonder and scandal, they restored that ceremonial precept of the old law in substance, as is evident from the chapter "De corpore vitiatis" in the collection of decrees, and from the entire title of the book of decrees concerning whether or not to ordain those with physical infirmities.

WHAT IS IN FAVOR OF THE ORATOR. Nevertheless, the proven character, piety, and knowledge of the orator, which are commended by the Bishop, must be considered with the greatest care, especially in these times in which the shortage of priests is felt everywhere due to military conscription, from which the orator has been exempted due to his visual defect. These circumstances may even open the way for greater grace, because the orator does not suffer from a weakness of the optic nerves in his left eye to

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such an extent that he can barely see.

[*Latin ed. p. 615*]

DISPENSATION FROM IRREGULARITY 6!5 can discern. For he sees, as he writes, and is able to perform the sacred ceremonies. Finally, the Orator's disposition towards the ecclesiastical state might also open the way for grace. Indeed, he is already twenty-one years old, and from his early youth, he has intended nothing but to ascend to the priesthood. This desire of his entire life, this culmination and end of all his thoughts, actions, and works; from which, no one can doubt, the Orator will bring great benefit to the Church. Therefore, having considered these things from various perspectives, the Most Eminent Fathers were asked whether the requested dispensation should be granted to the Orator. RESOLUTION. After the matter was discussed by the Sacred Congregation, a response was given on February 15, 1879: "For the granting of this grace, the decision and conscience of the Bishop are to be followed, with the understanding that he will speak with the Most Reverend [Bishop]." ABSOLUTION AND EXONERATION. On June 21, 1879. SUMMARY OF THE CASE. From the year 1845, Anthony M., foreseeing the ruin of his family, obtained a decree from the Apostolic See, by which he was granted an indulgence to provide, for a period of ten years, for the recitation of 350 Masses with two anniversaries, in lieu of the annual masses of 1585, and the two anniversaries, on which his assets were burdened. Subsequently, in the year 1846, in order to safeguard the rights of all legatees in the future, a mortgage was registered on a suitable property, at the order of the Ordinary, and it was not renewed thereafter. Indeed, even after Anthony's death, the heirs of M. only managed to obtain a postponement of the announced indulgence in the year 1859. But at present, the amount of debt, both the mortgage and the fluctuating assets of the estate, is so great that the assets are, in part...

[*Latin ed. p. 616*]

616 Concerning the remission and cancellation of debts, some are found to be partially subject to expropriation. The Marquis Alexander, having presented a petition to the supplicant on September 24, 1877, stated: his family was burdened with an annual debt of 985 Masses, arising from benefits received; due to extreme poverty, he had omitted the celebration of 7000 Masses since the year 1868; therefore, he earnestly implored for the remission of the omitted debts, as well as for the cancellation of such debts in the future. The Ordinary, having been consulted according to custom, reported that the family of Mr. [name omitted] had descended from a respectable social standing to a pitiable condition due to improper management of their assets.

A Synopsis of the Matter: REMISSION AND CANCELLATION SEEM TO BE DENIED. The fulfillment of the last wishes of the dying is to be

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upheld, as is proclaimed by the bond of friendship. For nothing is owed to men more than that their last wishes, once they can no longer express anything else, should be scrupulously observed and held as law: L. 12 and 120 ff. on the meaning of the word "sign," NovelL 22 cap. 2, Canon on the last will, Clement. Concerning religious houses, Concil. Trid. cap. 8 sess. 22 on Reform. The Roman Pontiffs have consistently vigilantly guarded against the defrauding of pious benefactors where a provision has been made regarding legacies for Masses. Therefore, as soon as any opinion arose, claiming that the obligation to celebrate Masses for the repose of the soul, established by a bequest, was extinguished and nullified after a certain period, this proposition was immediately included among the condemned propositions by Alexander VII on March 18, 1666: under number 43 of the condemned propositions, it is found: "An annual legacy, left for the soul, does not last longer than ten years." Furthermore, Innocent XI, in his Constitution, which begins with the words "Nuper," in order that all frauds concerning this matter might be prevented, desired that the decrees and provisions issued by the Holy See regarding the cancellation, reduction, and composition of debts, be accompanied by this clause: "provided that they have not maliciously neglected to make a composition, otherwise, no grace will be granted in any way."

[*Latin ed. p. 617*]

ABSOLUTION AND REMISSION! 617 Furthermore, adhering to these legal precedents, the Sacred Congregation of Propaganda Fide has, on more than one occasion, denied absolution from past omissions, as can be seen in the Reduction of Perugia, July 3, 1784. In the Reduction of the Servants of the Choir of Bologna, November 24, 1787, in the first question, it rejected the pleas of the priest Peter Cassini, who requested absolution for 830 Masses not celebrated, and ordered the Archbishop to compel Cassini to celebrate the omitted Masses, even under threat of sequestration of the fruits of the benefice. Given these precedents in law, it seemed that neither absolution nor remission from the fulfillment of the legacies should be granted to the Oratory. Not absolution, because there was no basis for such a grant, namely, good faith. It is known that, after a decade, the heirs of M. did not seek to obtain a prolongation of the indulgences, nor did they fulfill the obligations of the Masses; and although, at a later time, in the year 1859, they renewed their pleas on this matter, nevertheless, taking advantage of the opportunity in which the injustices of the times allowed the rights and properties of the Church to be violated, and the pious intentions of the founders to be scorned, the heirs of M. did not seek to settle the matter with the Apostolic See, but sent the legacies, only approaching the Sacred Congregation in the year 1877. This course of action, as it seems to contain bad faith, did not appear worthy of any consideration. Moreover, because they themselves did not take

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any steps, after the due time, to renew the mortgage inscriptions for the protection of the legacies. Not remission, because, in addition to what has been mentioned, it should be remembered that the Sacred Congregation of Propaganda Fide is accustomed to maintain the foundations of Masses to the greatest possible extent, as can be read in the Roman Subsidies of June 3, 1852, §. However, in this case, ABSOLUTION AND REMISSION SEEM TO BE WARRANTED. Indeed, for a just cause, absolution from all past omissions is usually granted; but also remission from the fulfillment of the legacies. Certainly, among the just causes for granting both absolution from past omissions and remission, extreme poverty is counted, and this is due to the presumed intention of the founders, who, if they were still alive and, seeing the extreme poverty of their descendants, might perhaps have been moved by the voices of compassion, and would not have imposed the obligations of the Masses; S.C.

[*Latin ed. p. 618*]

618 CONCERNING ABSOLUTION AND EXEMPTION in Bologna. Concerning the burden of absolution and exemption, the decree of the legates of February 27, 1875, §. To the Orator. For this reason, Casalen, December 15, 1787, and Gamlen, December 20, 1788, question 2, and Ferrarien, Reduction of Masses and Absolution, December 20, 1788, question 2, and Albanen, May 24, 1792, and many other documents, attest that absolution has been granted for past omissions. Furthermore, Firmana Leg. May 31, 1721, and Spalaten, Exemptions, February 15, 1879, demonstrate that exemption has also been granted. In the matter concerning the poverty of the Orator, there seems to be no room for doubt, since the Archbishop himself testified that the Orator's family had descended from a respectable status to a pitiable condition. It seems even more fitting that, for this family, which is in a state of inability to fulfill the obligations of the legate, some relief should be granted by the Church, which is the most pious of mothers. With these things explained, the purpose is to clarify the following question: Whether and how one should respond to the prayers of the Orator in this case. RESOLUTION. The Holy Congregation, under the date of June 21, 1879, responded: Affirmative, after a certain number of Masses have been celebrated, as determined by the Archbishop, concerning the past; and that, if the economic condition of the Orator should improve in the future, he should, according to the prudent judgment of the same Archbishop, reintegrate a fair portion of the pious legacy with a mortgage, having made an agreement with the Most Reverend [Ecclesiastical Superior]. I. Absolution for past omissions of Masses cannot be granted unless there is a reasonable cause or just compassion; and that this absolution implies a remission and condonation of what one owes, which is due by law. II. Hence, the Holy Canons clearly state that, in no way, can the grace of absolution be granted to those

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who maliciously and with the hope of obtaining this absolution, omit the celebration of Masses.

[*Latin ed. p. 619*]

ABSOLUTIONS AND REMISSIONS 619, having presumed such a thing, as Innocent X II has. Recently, the Sacred Congregation [of Rites] has accustomed itself to granting absolution regarding past omissions, along with a salutary penance, when it is clear that Masses have not been celebrated without the fault of the legate, and when there is not only a lack of revenue with which to satisfy for past omissions. IV. It is deduced from numerous resolutions of the Sacred Congregation that extreme poverty constitutes a legitimate reason for granting absolution and remission, especially when it concerns the relatives of the founders, whose poverty is very grave. V. Indeed, there is a presumption of law that the founders did not intend to burden their relatives with so many and such obligations, when those same relatives have proven themselves unequal to bearing them, due to great family hardships. VI. Even relative poverty can provide a suitable reason for absolution of uncelebrated Masses, and for a proportional remission in the future; for it is gathered from the treasury of the Sacred Congregation that such grace has often been granted, simply with the addition of relative poverty (1). VII. The legate having had poverty, not merely relative but almost absolute, as a reason for obtaining absolution and remission, caused the Bishop to descend from a more dignified rank to a more pitiable one. (1) In jurisprudence, two kinds of poverty are distinguished: namely, absolute poverty. An absolutely poor person is one who completely lacks all goods, whether movable or immovable; or who possesses so few goods that he cannot sustain life unless he provides for himself through manual labor or some industry. A relatively poor person is one whose condition, with which he was born, or the dignity to which he aspires, is lacking in goods, profits, or earnings, whether through manual labor or through mental faculties. The Revolution, which has now greatly increased throughout Europe, has made many Bishops absolutely poor, and because they are not able to provide for themselves, they are worthy of great honor.

[*Latin ed. p. 620*]

620. REGARDING A DISPENSATION FROM IRREGULARITY. June 21, 1879. By summary petition.

COMPENDIUM OF THE FACTS. Paschalis Maria D., of the diocese A., committed homicide in the year 1869. Subsequently, repenting of the deed, and having served a one-year prison sentence, he presented a petition to the Most Holy [See], in which he expressed his hope that he might be granted a dispensation from the irregularity incurred, and that he might be admitted to the sacred military order. The Bishop explained how this had happened, stating that Paschalis had run to the aid of his brother, who had been at-

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tacked by an aggressor. Against Paschalis, the brother of the aggressor then rose up, to whom the petitioner declared that he would fire a shot from his musket if he approached any closer. And although he repeated this warning several times in a loud voice, the aggressor continued to advance, whereupon Paschalis fired the musket, killing the aggressor with the first shot. Thus, it appears that the homicide was committed in self-defense; for this reason, the civil authorities imposed only a one-year prison sentence. Furthermore, the Bishop reported that Paschalis, both before and after the homicide, had been endowed with the best of morals, and that he had shown a fervent desire to join the sacred military order. He also stated that the petitioner had been fully reconciled with the family of the deceased, and that no astonishment or scandal could arise from the granting of the requested favor.

SYNOPTIC DISCUSSION. The granting of this dispensation is hindered by a legal provision which states that those guilty of voluntary homicide are to be excluded from the ministry, as is clearly taught in cap. 4, 6, and 8, dist. 50, and by the Council of Trent in Session 14, cap. 7.

THINGS WHICH ARE OPPOSED TO THE GRANTING OF THIS GRACE.

[*Latin ed. p. 621*]

DISPENSATION FROM IRREGULARITY 621. Regarding reformations: "He who, of his own will, commits homicide, even if the crime has not been proven by the judicial order, nor made public by any other means, but has been concealed, can never be admitted to the sacred Orders, nor may any ecclesiastical benefits, even those not involving the care of souls, be conferred upon him, but he shall be forever deprived of all ecclesiastical rank and office." The Holy Congregation, strictly adhering to these Tridentine provisions, has repeatedly denied dispensations from the irregularity incurred through homicide, in cases where such individuals sought admission to the priesthood, as evidenced in the records of Lamacen, Irregularitatis, September 13, 1738, and Ferentina, December 19, 1801. And rightly so, since such a concession would generate scandal among the people, if they were to see someone stained with the blood of another being considered pure in the sight of Christ. However, in the case of Paschalis, it seems undeniable that he was guilty of voluntary homicide, given that he did not await the aggressor who was coming against him with a weapon in hand, but instead wasted time, repeatedly shouting for help, which allowed him to escape, or at least to inflict a non-lethal wound with a fiery projectile. Therefore, since he caused death without exercising due restraint in the defense of his own life, his act must be considered voluntary homicide, and the requested dispensation should be denied. This is indeed true, as he was

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even punished with a prison sentence by the secular court.

WHAT FAVORS THE CONCESSION OF THE GRACE. On the other hand, it must be considered that, according to the aforementioned Tridentine provision, a dispensation must be granted whenever the homicide was committed accidentally, or in self-defense. It is stated: "If it is reported that the homicide was not committed intentionally, but accidentally, or in self-defense, in order to protect oneself from death, then, for this reason, a dispensation must be granted to him for the sacred orders and the ministry of the altar, and for all benefits and dignities, insofar as it is permitted by law, to the local ordinary... who can only grant the dispensation if the cause is known and with approved prayers and explanations, and in no other way." This is certainly verified in the case of Paschalis, since he killed his adversary in self-defense.

[*Latin ed. p. 622*]

622. While maintaining due regard for the inviolable protection of life, it is not necessary that one await the first blow, nor that one defend oneself with equal force against the aggressor, but rather that one have been unjustly attacked by the deceased, so that one had no means of avoiding the danger and preserving one's life, and that one struck the aggressor in the very conflict; and that, even though one could have freed oneself with a single blow, one did not repeat the blow. Indeed, this is evident from the very account of the facts. When Vix and Paschalis, against the aggressor of their brother, cried out for him to leave their brother alone, immediately the aggressor's brother attacked Paschalis, armed and secure, and although warned not to approach, he nevertheless advanced further, from which he fired a musket, and with the first shot killed the aggressor. These circumstances, considered not in a simple theoretical manner, but especially in the actual event, clearly suggest that Paschalis maintained the due regard for the inviolable protection of life, and that he committed the killing only for the preservation of his own life; thus, the provision of the Council of Trent, mentioned below, can be applied in his favor, and a dispensation should be granted. If anything were to be attributed to the Orator in this matter, yet, if it is established that he possessed good morals before the commission of the crime, and that he showed sincere repentance after the offense, and constant amendment, a dispensation is usually not denied, especially when there is a necessity or utility for the Church, and when there is no scandal or offense to be feared, as is demonstrated by examples in Mantuana, May 11, 1709, in response to 2 questions; in Ipren, January 18, 1703; in Lemovice, August 8, 1789; in Adiacen, November 26, 1851. However, since there is no mention of any necessity or utility for the Church, which the Bishop has not instituted, everything else is perfectly verified in this case, both from the account of the facts, and from the reports of the Bishop. But beyond these things, there are many other factors

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that suggest leniency: such as the provocation on the part of the deceased, the lapse of time since the homicide, the penalty of imprisonment already served, peace obtained from the parents, a testimony of a commendable life, and the favorable opinion of the Bishop: all of which are usually given great weight when granting indulgences, as stated by Fagnanus in chapter "Henricus," number 41, and by Dz Clerk, in his writings.

[*Latin ed. p. 623*]

DISPENSATION FROM IRREGULARITY 623 Having considered various matters, the prudence of the Emorum Judges was deemed sufficient to determine what should be decided in this case. RESOLUTION. The Sacred Congregation of the Council responded on June 21, 1879: At the discretion and conscience of the Bishop, having spoken with the Most Reverend... FROM WHICH THESE CONCLUSIONS ARE DRAWN. I. Among the offenses that prevent one from receiving Holy Orders and from exercising the rights and privileges thereof, are especially included mutilation, whether of oneself or another, and homicide committed by one's own action, by command, by counsel, or by exhortation (1). II. Therefore, he who, of his own free will, commits homicide, either directly or through another, must be removed from the order, benefice, and ecclesiastical office, even if such a crime has not been publicly or secretly proven by any judicial process. III. It is unbecoming to treat the immaculate Blood of Christ with such disregard, when the faithful recognize in him one who has been stained with the blood of his neighbor. IV. However, according to the disposition of the law, he who commits homicide not with intent, but by accident, or by force in order to repel force, in order to defend himself from certain death, is not to be excluded from Holy Orders and from the ministry of the altar. V. Therefore, he who, having no other means of avoiding death, kills his attacker, cannot be considered outside the law; for, as nature teaches us, we are inclined to use force to repel force, and to undertake the protection of our lives (2). VI. But he who is considered a homicide, and who, in killing his aggressor, does more than what right reason suggests in repelling an injury, is more blameworthy; for if all laws proclaim the right to repel force with force, they also imply that this should be done with moderation, for the sake of the innocent. (1) We have Exodus, chapter 21, verse 14: "But if a man lie in wait, and kill any person of Israel, then thou shalt take him out from among the people, because he hath shed blood of his people." (2) See I. 2 ff. on justice and law: "And if a man lie in wait, and kill any person of Israel by cunning, then thou shalt take him out from among the people, because he hath shed blood of his people." "He who, in defending his own body, does what he believes to be right, is considered to have acted justly."

[*Latin ed. p. 624*]

624. DISPENSATION FROM IRREGULARITY VII. It seems that the de-

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fense was justified in this case; for the aggressor was killed, not to exact vengeance, but to repel the injury, and because the aggressor could not avoid death by flight, outcry, or any other means. DISPENSATION FOR MARRIAGE (1) On July 26th and September 20th, 1879. On July 8th, 1875, Ferdinand and Adriana, young people of Belgian nationality, entered into marriage with the consent of their parents. They spent two months on a honeymoon; during this time, the difficulty in perfectly fulfilling their marital duties became apparent. For, when they attempted to cohabit about twelve times, they always found that the act was not consummated. As a result, the woman suffered intense nervous irritation, which sometimes appeared to be dementia. Furthermore, for four months, the couple lived with the woman's parents, who graciously received them as guests, and there seemed to be no trace of disagreement between them; although Adriana's health was already deteriorating. When they moved into their own home, the beginning of discord appeared between them, and the wife's condition worsened so much that she often broke out into fits of insanity. The woman had learned that her husband's character was the opposite of hers, as she herself stated. Therefore, after barely three months, the wife was returned to her parents, not against her husband's will, but in protest against him. Subsequently, Adriana instituted two actions against her husband; one before the civil court for separation, and another in May 1877 before the Archdiocesan Curia. She earnestly implored the Prelate to declare the marriage invalid by the Church. SUMMARY OF THE CASE. (1) Recole Vol. X I page 53. 109. 134. 427.

[*Latin ed. p. 625*]

DISPENSATIONIS MATRIMONII ' ' 625 eum in finem ut ab illa, aerumnis plena, liberaretur conditione. Antistes super non consummatione matrimonii processum instruere ;• hinc a tribus peritis physicis iudicium exquisivit, peracta utriusque coniugis in corpore inspectione. Et testibus septimae manus etiam ex utraque parte auditis, hanc, die 11 Decembris 1878, edidit sententiam ; «censemus et dicimus matrimonium numquam fuisse consummatum, et » gravissimas adesse rationes, ut Sanctitas Sua in hoc matri» monio rato et non consummato dispensationem concedat ». Sententiam et actorum processum s. Congregationi transmisit Antistes, precesque adiecit favore mulieris ; tum quia nulla affulgeret spes reconciliationis, tum quia mulier, alioquin pia, in periculo versaretur in medio saeculi. Disceptatio gynoptica. I i ! MULIERIS DEFENSIO. Quae 'omnino ad dispensationis gratiam consequendam requiruntur hisce in causis, adesse in casu, ait defensor. 'Adest nempe probatio non consummationis, coalescens ex iuramento coniugum et septimae manus* necnon ex virgini4atis experimento ad praescripta per Cap. Proposuisti 4 de probat. Iamvero mulier, quam testes mendacii insciam enunciant, sub iurisiurandi religione solemne de infecto coniugali opere reddidit

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testimonium ; dum fidem facit, quod omnia ad hoc exercita tentanti ina, in irritum cesserint. Depositio viri haud fuit discors; nam ille ipse fassus est, actum consummationis expletum non fuisse, non obstantibus suis conaminibus, eoquod numquam mulieris claustrum penetrare valuerit, ut ipse deposuit. Confessioni coniugum iuratae, accedunt testes ab utroque coniuge inducti, qui de Ferdinandi ineptitudine ad copulam explendam deponunt. Quo fit, ait defensor, quod inconsummatio probata maneat, ex ipsa viri imperfectione. Quod si haec sufficerent ex doctrina Reiff, in lib. 4 Decret, tit. 15 n. 44, Sánchez de matrim, lib. 7 disp. 107 n. 4, praesto tamen sunt, ad huiusmodi finem, relationes in arte peritorum, Acta, tom. MI. fase. C XLIV, 40

Regarding the marriage dispensation: ' ' 625, in order to free her from this condition, which was full of sorrows. The Ordinary initiated a process concerning the non-consummation of the marriage; hence, he sought the judgment of three expert physicians, after a thorough examination of both spouses' bodies. And after hearing witnesses, both parties having sworn oaths, he issued this judgment on December 11, 1878: "We believe and declare that the marriage was never consummated, and » there are very serious reasons why His Holiness should grant a dispensation in this ratified and unconsummated marriage." The Ordinary sent the judgment and the proceedings of the case to the Sacred Congregation, adding prayers in favor of the woman; both because there was no hope of reconciliation, and because the woman, otherwise pious, was in danger in the midst of this century. Gynoptic discussion. I i ! DEFENSE OF THE WOMAN. "All that is required in these cases to obtain the grace of a dispensation are present in this case," said the defender. 'Indeed, there is proof of non-consummation, arising from the oath of the spouses and the testimony of seven witnesses, as well as from the experience of virginity, according to the prescriptions of Chapter 4 concerning proof. Indeed, the woman, whom the witnesses falsely accuse of lying, gave testimony under solemn oath regarding the lack of conjugal intercourse; thereby affirming that all attempts made for this purpose have been in vain. The husband's testimony was not contradictory; for he himself affirmed that the act of consummation was not completed, despite his efforts, and that he was never able to penetrate the woman, as he testified. To the sworn confession of the spouses, are added witnesses brought by both spouses, who testify about Ferdinand's inability to consummate the marriage. This, the defender said, is why the non-consummation remains proven, due to the husband's imperfection. Although this may be sufficient according to the teaching of Reiff, in lib. 4 Decret, tit. 15 n. 44, and Sánchez de matrim, lib. 7 disp. 107 n. 4, there are also, for this purpose, reports from experts in

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the art, in the Acts, volume MI, page C XLIV, 40.

[*Latin ed. p. 626*]

626 Regarding the dispensation from marriage, those who have examined Adriana, and who provide certain testimony concerning the lack of consummation, renounce the woman's virginity. Speaking about the causes for the dispensation, the defender enumerated several, placing the first as a grave doubt regarding the husband's impotence, at least relative, antecedent, and perpetual. This, when presented as a reason for a gracious dispensation, does not require certain and conclusive proof, but it is sufficient that it be so probable that the Supreme Pontiff may consider it true, as Coscius de separatoribus, lib. 1, cap. 16, n. 1, and De Luca, disputatio 7, n. 7, de matrimonio, state. However, Ferdinand's impotence is entirely demonstrated by the testimony of two physicians, who declare that this marriage should be considered dissolved, as it exists. In the proclamation of civil divorce, the orator sees a cause for dispensation in the discord of minds, which appears incurable. To this is added the physical impossibility of cohabitation, lest Adriana be exposed to the danger of losing her health from futile attempts at consummation, and the impairment of the use of reason due to hysteria, as experts in the medical art openly testify regarding this matter. To this is added the danger of incontinence and the spiritual benefit of the petitioner; which, by itself, is considered a sufficient reason for the dispensation of marriage, as Perez de matrimonio, disputatio 20, sect. 7, n. 11, teaches.

OBSERVATIONS OF THE DEFENDER OF THE BOND. The husband, in his depositions, stated, said the advocate, that they have had intercourse approximately twelve times, so that the spouses have indeed mingled, such that the virile seed, deposited in the woman's womb, remained there for a certain time; which, indeed, is perhaps sufficient for the consummation of the marriage; as Sánchez de Matrimonio, lib. 7, disputatio 2, n. 10, states: "A part of the seed received within the vessel is sufficient for the consummation of the marriage and for making the spouses one flesh." However, the spouses, in agreement, believed that they had never fully completed the act in order to fully satisfy natural pleasure. Therefore, the defender distinguishes two aspects of the act of copulation: one for procreation, by which the spouses become one flesh, and the other for pleasure, by which the sensitive part is fully...

[*Latin ed. p. 627*]

DISPENSATIONIS MATRIMONII 627 receives satisfaction. That is necessary for consummation, not equally so. It is also verified by imperfect coitus, so that, according to the doctrine of forensic medicine and Canonists, it is sufficient to deposit a prolific fluid in the vagina of a woman, without it being immediately projected into the internal cavity of the uterus),

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as Teichmeyer, *Institutiones Medicae, Legales*, cap. 15, quaest. 5, states: "that the projection of semen to the internal uterine orifice" and therefore, the effusion is not always necessary. The Faculty of Leipzig, apud Zittmann, *Consilia*, 6, essay 77, says: "A congress, even if incomplete, and the application of semen, in any way, to the vagina, frequently suffices for a woman to become pregnant." And Valentini, in *Novell, Medica, Legalis*, case 3, page 33, and case 60, raises the question of whether a mentula (a device used to retain semen) used for a short time prevents conception and impregnation, and answers negatively, because "by reason of the virility of the seed, the ejaculation of a prolific seed alone is sufficient, not into the internal cavity of the uterus, but only into the vagina." The same is confirmed by the most recent writers of the same art, Mahonius, *Medicina, Legalis*, vol. 4, title on impotence, page 51, and Gasperius, *Manual, Practica, de Medicina, Legalis*, vol. 2, part. spec. section 1, chapter 3, § 3. Among the Canonists, Schmalzgrueber, *Iuris Ecclesiastici*, vol. 4, part. 3, title 5, n. 37, and Sánchez de Matrim, book 2, disp. 21, n. 2, are prominent. They agree that (marriage is consummated) by any means by which semen is received within the natural vessel, without penetration of it, because that union is sufficient for generation, and through it, the spouses become one flesh"; and in book 7, disp. 92, n. 10, "a part of the semen received within the vessel is sufficient for consummating the marriage and making the spouses one flesh." If a woman could receive semen within the vessel, even if she could not retain it even once, then truly the marriage is consummated, and the spouses become one flesh. A striking example of imperfect coitus is presented by Zacchias, *Quaestiones Medicae, Legales*, I, 3, t. 1, qu. 7, num. 24, in women who are *atresia* or imperforate, in whom the uterine orifice is obstructed by a membrane, and yet they become pregnant. He himself states that...

[*Latin ed. p. 628*]

628. The matter of the marriage dispensation reveals the force of a valid attraction, by which the seed is, in a certain way, drawn through the same passages into the womb. Thus, he demonstrates the medical experts' knowledge in the matter at hand. From this, he argues that there is a sexual union, sufficient for the consummation of the marriage, and that the term "impotence" applied to Ferdinand is understood in this sense. Indeed, it is not an impotence relative to his wife, but relative to a certain degree, namely, the perfect act of copulation with his wife. This, the defender says, does not prevent the union of bodies, and therefore does not prevent the consummation of the marriage. Furthermore, he retains the testimony of the doctor Hubert, who is an expert in obstetrics, and who, from the woman's side, affirms that there is no certainty of the marriage not being consummated, spontaneously arising from this, which means that a dispensation should not be granted. Otherwise, the consummation, for which valid presump-

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tions of law and fact exist, would be considered definitively false: which contradicts those same presumptions. And thus, with the foundation of the lack of consummation refuted, the defender says that other extrinsic causes for the dispensation also disappear. For, according to the prescription of the sacred canons, in the case of absolute impotence of either spouse, in order to eliminate this danger, so that what God has joined together is not wrongly separated, a three-year period of cohabitation is often granted as a test. In a more valid manner, this remedy should be applied in the case where there is an impotence that is not absolute with respect to all women, nor absolutely relative with respect to a certain woman, but only relative with respect to a certain degree, that is, to the perfect act of copulation. Nor is it shown, the defender says, that Ferdinand has subjected himself to any medical treatment, and therefore, the outcome of this treatment must be considered: because this impotence is not certainly incurable. Similarly, if it were a matter of restoring a woman's impotence through some incision, without danger to her life, the doctors agree that she should undergo such an operation, Sánchez de matrim, lib. 7 disp. 93 n. 32. With these things stated, the following point was to be explained.

[*Latin ed. p. 629*]

DISPENSATION OF MARRIAGE 629. Doubt: Whether it is necessary to consult with the Most Holy Congregation regarding a dispensation for a marriage that is valid but not consummated.

RESOLUTION. After deliberation, the Sacred Congregation, on July 26, 1879, decided to respond: "Affirmative, forbidding the husband from entering into other marriages without the consultation of the Sacred Congregation."

(1) However, with the benefit of a new hearing, the case was again debated under the same doubt: "Whether one should adhere to or depart from the previous decisions in this case." The Sacred Congregation responded on September 20, 1879: "Adhere to the previous decisions."

From which the following are deduced:

I. The consummation of marriage can be proven by the sworn testimony of the spouses and by the testimony of witnesses; and the proof is strengthened to the extent that, through an examination of the woman's body, the integrity of her virginity is established.

II. The confessions of the spouses and witnesses, supported by oath, provide moral certainty; whereas the examination of the woman's body provides physical certainty regarding the lack of consummation of the marriage.

III. According to the opinion of Canonists and experts, marriage cannot be said to be consummated unless the hymen is ruptured, and fertile semen is deposited within the woman's vagina; otherwise, if it is deposited

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outside the vagina, with the hymen remaining intact, the marriage is not considered consummated.

IV. Nevertheless, in several cases, the Sacred Congregation has granted a dispensation from a marriage that is valid but not consummated, even when a tear in the hymen has been found in some part (2).

(1) See *Recole*, Vol. XI, page 595, in the note. In that place, we indicated the reason why, sometimes, the Sacred Congregation adds the condition: "forbidding the husband from entering into other marriages without the consultation of the Sacred Congregation."

(2) In the Neapolitan case of marriage, on July 26, 1866, although midwives found a tear in the upper part of the hymen, virginity was considered to be preserved, and the marriage was dispensed.

[*Latin ed. p. 630*]

630. DISPENSATION OF MARRIAGE. V. Although the presence of the hymen may not, in some cases, be considered by medical experts as an absolute indication of virginity, since conception can sometimes occur even with an intact hymen, ordinarily a woman's integrity is demonstrated by the presence of the hymen, which is called the seal of virginity. VI. Therefore, the distinction between consummated and unconsummated marriage seems to lie in this: that in the latter, there is a lack of the emission of semen within the woman's vagina, prevented by the presence of the hymen. VII. Among the causes for which a marriage can be validly dispensed, are included the danger of incontinence, alienation of affections, and doubt of impotence; and if these are presented to obtain a dispensation, they do not require certain proof, but rather that which is sufficiently probable that the Holy Pontiff may consider it true. VIII. In the case of unconsummated marriage, it appears that the reason may be the impotence of the man; and also, that no prolific liquor has been deposited within the uterus or in the vagina, but outside the uterus, or in the part which the experts call the vestibule; (1) and therefore, the marriage remains valid, because the spouses have not become "one flesh." (1) The most eminent defender of marriage, striving to uphold the sanctity of marriage, conceded that in the case of unconsummated marriage, there may have been an impediment due to the tightness of the woman, and due to a physical imperfection of the man. However, relying on the judgment of canonists and experts in the healing arts, he endeavored to demonstrate that such an act, if it occurred, was sufficient for the consummation of the marriage. For it seemed to him that the male semen had been deposited within the woman's vagina, and that she had also experienced the pleasure of intercourse. However, it seems almost certain that this could not have occurred in a woman with an intact hymen. For the hymen, which is called the "clasp," the "closure," the "seal of virginity," is a natural opening of the vagina. But no one can enter a house with a closed door. Furthermore, the same defender of marriage proceeds, relying on the

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authority of Professor Hubert in the Louvain Athenaeum; who states that he has observed some women who had an intact hymen. And therefore, the defender of marriage believes that marriage can be consummated even without the tearing of the hymen. But it should be noted that, whatever may be the case with these instances, they are entirely extraordinary. And the judge must conform his judgment to the norm of law. For, according to the law, *de legibus*, the judgment must be conformed to what frequently happens, not to what rarely occurs. In the case of unconsummated marriage, when the man is almost without an erection, it would not have been possible for him to ejaculate semen through the natural openings of the hymen, as Doctor Hubert supposes, in the case of women whom he has observed, who have conceived with an intact hymen. Therefore, it is proper to say that the marriage has been dispensed by the Congregation, as being only valid and not consummated; since there were also reasonable causes for such a dispensation. We beseech our readers, as far as is possible, if at any time we should traverse an ungrateful and slippery path, while we strive to lay down the arguments on which the resolution given by the Congregation is based.

[*Latin ed. p. 631*]

631 FROM THE DECREE OF THE SACRED CONGREGATION OF BISHOPS AND REGULAR CANONS CONCERNING APPELLATIONS, dated June 13, 1879, and January 23, 1880; A SUMMARY IS PRESENTED. The Pious Sodality, established under the name of St. Joseph in the City of V., reported that a lease agreement, initiated by Angelus M., was subject to a flaw extending to the third male generation, due to the inadequacy of the stipulated canon of redemption, amounting to 2,50 scudi, concerning a land area of 14 acres and more. However, since the heirs of Angelus M. had sold the useful dominion of said land to the Hospital of the City of V., the Pious Sodality demanded restitution of the land against the ultimate possessor. Therefore, on September 17, 1809, the question was proposed under the formula of doubt: "Whether the lease agreement is void or contains a flaw, so that the Pious Sodality should be restored to the land in this case." And the Eminent Fathers judged it fitting to respond: "Regarding the nullity, negatively; in the remaining matters, it is pleasing to reach an agreement, and the Hospital, from the date of the petition and during the term of the lease, shall pay annual sums of twenty-seven scudi in lieu of the canon of redemption." The Pious Sodality, considering this resolution unfavorable, was displeased with the Hospital; however, having obtained the benefit of a new hearing, it remained silent and did not pursue the appeal. The Sodality, however, insisted that the matter be submitted to a new judgment, with the intention that, if the resolution were confirmed, it would have the effect of benefiting its own interests. At various times, the Sodality reiterated its requests, explaining that either the

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dispute should be resolved, or the Hospital should be ordered to submit an appeal, and to pay the canon.

[*Latin ed. p. 632*]

J63. Regarding the term for filing an appeal, according to the resolution of the Holy Congregation. The Holy Congregation established a final deadline for the Hospital to present its claims; but this was done improperly, since nothing was produced, so that it appears to have abandoned the appeal. A concise summary. THE RIGHTS OF THE PII SODALITY. It is established by law that the time for pursuing an appeal, or for abandoning it, does not exceed one year, or at most two years, if there is a necessary and evident cause; Chapter 5 of the Roman Code concerning appeals: "If an appeal is made before or after the sentence, one year is granted to the appellant, and, with an evident cause, two years, unless the judge from whom the appeal was made, according to the distance of the place and the nature of the persons and the matter, has prescribed a shorter time." These elements were lacking in the present case due to the proximity of the location. Moreover, it is derived from the sacred canons that one appears to have abandoned an appeal if he has not pursued it, from which a just impediment has ceased; Clementine Code, concerning appeals: "If, after a just impediment has ceased, he does not proceed, his appeal shall be considered abandoned." Therefore, it is clear that the intended effect of the appeal must be achieved, as stated in Chapter 5 of the Roman Code concerning appeals: "If he who has appealed has not prosecuted the cause of the appeal, the sentence shall stand." The same is established in Chapter 6 of the Code concerning appeals: "To him who appeals, one year is granted, within which he must, in general, proceed with the lawsuit with his opponent, or, if a just cause intervenes, another year is granted, after which, if the lawsuit is not completed, the sentence remains valid." From this, it appears that the term for the appeal was peremptorily set in this case, and the resolution of September 17, 1879, was effective in the matter at hand. It is certain that the administrators of the Hospital gave no response; so that not only two years, but five years have passed since they were given a one-month deadline to present their claims. Hence, no...

[*Latin ed. p. 633*]

SECTION 633. The appellation, or appeal, is to be considered a means of obtaining a judgment, and it is directed solely to rendering the sentence of the Congregation void. However, it seems to be contrary to the nature of judgments, whose purpose is to give to each one what is due to him, inasmuch as it allows the appellant to prolong lawsuits indefinitely at his own discretion. Regarding this matter, the Gregorian Code, §§ 969-971, granted the appellant six full months to pursue the appeal; after which, the appeal is definitively concluded, without any judicial intervention. Further-

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more, the current code of procedure, no. 338, establishes that any appeal is peremptorily concluded if, within a period of three years, no action has been taken. Therefore, according to both canonical and civil laws, an appeal must be considered peremptorily concluded; and, in this case, more than nine years have passed since the appeal was filed, without any action being taken by the Hospital regarding the prosecution of the appeal.

RIGHTS OF THE HOSPITAL. In favor of the Hospital, it was noted that the sacred canons, in their dispositions, particularly favor equity; and therefore, it is not customary to issue any decision without hearing the other party. This is especially true in this case, because the Hospital has declared its intention to pursue the appeal; and because it has obtained a rescript from the Holy Congregation ordering that it be heard. This concession seems to require a special form of inquiry before it expires; and because this case does not appear to be included in the common form of inquiry. It should also be noted that the Gregorian Code itself has not made any changes regarding the form of procedure within the sacred Congregations. Regarding the duration of simple rescripts, Schmaltzgrueber, *Jus Eccl. Univ.*, § 6 on rescripts, no. 34, states: "Question 3: When should the execution of rescripts be carried out? Answer: With a distinction, for either a certain time is assigned in the rescript within which it must be carried out, or no time is assigned; if the former, the delegated judge, or another executor, must, within the time fixed for him, take up the matter or inquire into the cause, according to c. de caus. 4, de off. deleg. But if the latter, and no certain time is prefixed for the execution in the rescript, it must be determined whether another rescript is required for justice, or for lawsuits, or for..."

[*Latin ed. p. 634*]

63. 4. ON THE MATTER OF THE "PEREMPTORY" APPEAL. "Scriptum gratiae?" If it is a rescript of justice, and although the delegated judge ought, in every way, to strive to bring the litigation to an end as conveniently as possible, the power delegated to him does not, however, extinguish with the lapse of any certain time, as is stated in the venerable chapter 20 concerning judges, where the deviation from the law is almost 48 §. We believe that there, a period of three years was prescribed for the instance of judgment. But if it is a "scriptum gratiae," the Ordinary to whom the letters are addressed must, within thirty days from the presentation of the letters, examine them and send a response to the possessor, unless a legitimate impediment or a contradiction exists. Having considered these matters from various angles, the following question was to be determined: "Does the peremptory appeal have a place, so that the expedited hearing of the case must be granted, as in the case decided on September 17, 1869?" To this controversy, the Fathers replied: "The case shall be entirely and infallibly presented at the first meeting after the next Congregation, under

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the following question: Whether we should adhere to or deviate from the decisions made on September 47, 1869." RESOLUTION. The Holy Congregation, having considered certain other arguments presented by the pious Sodalitium, which indicated a violation of contract, and in the silence of the Hospital, responded on January 23, 1880: "In the decisions, and furthermore." FROM WHICH WE GATHER: It is permissible to interpose an appeal from any sentence, or from any provision of the judge, by which someone feels aggrieved, whenever the opposing party does not demonstrate a limitation, which is not presumed in cases of doubt, but must be proven (1). (1) There are two limitations that are established by law against the right to appeal. An example of a sentence that admits an appeal only in a devolutive sense is: one concerns any kind of pronouncement in the division of a parish made by the Bishop, even against the will of the parish priest. For the appeal, if made, is both expensive and, at the same time, only devolutive; the other is suspensive, if this appeal is made, the division is not delayed, nor is it suspended, to the detriment of souls. Also, the sentences of Bishops.

[*Latin ed. p. 635*]

635. However, the time for pursuing an appeal, according to law, cannot exceed a full year, or at most two years, so long as the cause is evident.

III. Hence, when a legitimate impediment is lacking, the benefit of the appeal seems to be lost, for he who has not pursued the same appeal within the time established by law.

IV. It is the nature of judgments that each should receive what is due to him; but sentences would be improperly rendered, if they were to depend on the will of the victorious party, whether to allow the matter to pass into judgment, or to prolong the disputes, because that party would neither abandon nor pursue the appeal.

V. The legitimate time for pursuing the appeal has completely passed; therefore, it appears that the administrators of the Hospital, by delaying, preferred to prevent the effect of the sentence, rather than to pursue the appeal; hence, the previous resolution was rightly confirmed. In causes of visitation and correction, the appeal is referred to the appellate court; unless there is a grave impediment or disability, nor is it irreparable, in criminal cases, it is brought to effect in either direction. They only admit of an appeal, because then it would be permissible to appeal.

[*Latin ed. p. 636*]

636 FROM THE SECRETARY'S OFFICE: A Brief Letter, by which the Apostolic Vicariate of Hunan is divided into two parts, the northern and the southern. The northern part is erected as a separate Vicariate and entrusted to the Augustinian Fathers of the Province of the Philippine Islands.

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LEO XIII, POPE: FOR THE SAKE OF FUTURE MEMORY.

From the duty of our pastoral office, which Divine Providence has entrusted to us, we direct our cares and thoughts, above all, to those parts of the Lord's flock which are separated by vast distances of land and sea. Therefore, if it should happen that, in erecting new dioceses in such remote regions, we perceive that the safety and well-being of the Christian name will be better and more abundantly promoted, we are accustomed to accomplish this act with our Apostolic authority.

Indeed, when the Eremite Brothers of the Order of St. Augustine of the Province of the Philippine Islands earnestly desired that a mission be entrusted to them in China, and since the Apostolic Vicariate of Hunan, which is the largest, due to a lack of missionaries, could not be conveniently administered by the Order of the Minor Friars of St. Francis, to whom it is entrusted, a common agreement was reached between the Order of the Minor Friars of St. Francis, the Venerable Brother Eusebius Maria Semprini, Bishop of Tiberiopolis in the pagan lands, and Apostolic Vicar of Hunan, and the aforementioned Brothers of the Augustinian Order of the Philippine Islands. Prayers were offered to us, so that the Apostolic Vicariate of Hunan might be divided, by our Apostolic authority, into two parts, namely the northern and the southern, so that while the southern part would remain with the Apostolic Vicar Eusebius Maria Semprini, the other, namely the northern part, would be entrusted to the Order of the Augustinians for its governance.

We presented the entire matter to our Venerable Brothers, the Cardinals, who are entrusted with the affairs of the Propagation of the Faith, and, after carefully and attentively considering all aspects of the matter, they...

[*Latin ed. p. 637*]

LETTERS 637. After deliberation with the Venerable Brothers, we have decreed the following. Firstly, we divide the Apostolic Vicariate of Hunam into two parts, namely the Northern and the Southern. We erect the Northern part as a distinct Apostolic Vicariate, and we commend it to the Augustinian Fathers of the Province of the Philippine Islands in the Lord. Secondly, the boundaries between the two Vicariates are those proposed by the Most Reverend Father Eusebius Maria Semprini, namely the Prefectures or Sub-Prefectures of Gien-jam, Chiopu, Si-si, Uen-liu, Lon-jam, Lacuton-Tin, An-Sian, and Si-chou. Therefore, the new Vicariate includes all the territory which, inclusive of these Prefectures or Sub-Prefectures, extends to Hu-pe, Sout-Kinen, and Kuei-Kion, which are the exclusive limits of the same Vicariate on the Northwestern side. We wish and command these things, declaring that these present Letters are firm, valid, and efficacious, and shall be, and shall have, their full and complete effect, and shall fully suffice and apply to those to whom they pertain, and shall pertain, in all

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things and through all things; and thus, in the aforementioned matters, whatever is done by any judges, and delegates, even Auditors of the Apostolic Palace, nor also by the Cardinals of the Holy Roman Church, even as Legates from the Side, and Nuncios, must be judged and defined, and whatever is done to the contrary by anyone, knowingly or unknowingly, with any authority, shall be null and void. Nevertheless, insofar as it may be necessary, without prejudice to the rules of Our Holy See and the Apostolic Chancery regarding matters of law, and with all special licenses and individual considerations that may be appropriate; to the contrary of whatever may be done. Given at Rome, at St. Peter's, under the Fisherman's Ring, on the 13th of August, 1879, in the Second Year of Our Pontificate. Place for the Seal. Cardinal MERTEL.

[*Latin ed. p. 638*]

638 FROM 8. CONGREGATIONE INDULGENTIARUM (Concerning the Congregation for Indulgences). Three decrees granting various privileges to the confraternity dedicated to the Holy Infant Jesus. (1) To the Most Blessed Father. Henry Maria Alfred du Fougerais, Priest and General Moderator of the pious confraternity of the Holy Infant Jesus, canonically established in the city of Paris, prostrates himself humbly before Your Holiness and supplicates that, for the next seven years, for all and each priests, or directors of this holy work of the Holy Infant, wherever they may be, and for those in any councils of the aforementioned confraternity, as well as for priests in charge of a series consisting of at least twelve members, a personal indulgence of the privileged altar be granted three times in each week. And God, etc. The Most Holy Lord Pope Leo XIII, in an audience held on July 19, 1879, graciously approved, through the undersigned Secretary of the Sacred Congregation for Indulgences and Sacred Relics, the granting of a personal indulgence of the privileged altar three times in each week, provided that the priests, concerning whom this petition is made, have not obtained a similar indulgence for another day. This present grant is valid for seven years, without any need for a brief to be issued. Notwithstanding any contrary provisions. Given in Rome, from the Secretariat of the aforementioned Sacred Congregation, on July 19, 1879. F. R. T. H. M. CARD. MARTINELLI A. Panici, Secretary. (1) We present these privileges to our readers, so that, considering them, they may be encouraged to support this sacred confraternity, whose ultimate goal is no other than the eternal salvation of the souls of children.

[*Latin ed. p. 639*]

639 DECREE. The Most Blessed Father, Henry Maria Alfred du Fougerais, Priest and General Moderator of the pious Confraternity of the Holy Infant, canonically instituted in the city of Paris, prostrates himself humbly at the feet of His Holiness, and supplicates that, for the

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next seven years, he may grant to all and each of the Priests, or Directors of this pious Work of the Holy Infant, wherever they may be, and to those in any councils of the aforementioned Confraternity, and also to the Priests in charge of series to which at least twelve are attached, the faculty of blessing Crucifixes, small statues, and medals, with the application of the Apostolic Indulgences, and also those called the Indulgences of Saint Bridget. Which God grant, etc. By virtue of special faculties granted by the Most Holy Lord, our Pope Leo XIII, the Sacred Congregation for Indulgences and Sacred Relics grants to the Priests, concerning whom is written in the aforementioned petition, provided that they are approved to hear sacramental confessions, the faculty of privately blessing, outside the city and with the consent of the Ordinary, Coronets, Crucifixes, small statues, and medals, and of applying the Indulgences granted by His Holiness, as is published in the list printed by the Sacred Congregation of Propaganda Fide on February 23, 1878, and also the Indulgences called those of Saint Bridget. This present decree is valid for seven years to come, without any Brief being required, notwithstanding any contrary provisions. Given in Rome, from the Secretariat of the aforementioned Sacred Congregation, on July 31, 1879. AL. CARD. OREGLIA, Prefect. A. Panici, Secretary.

[*Latin ed. p. 640*]

Most Reverend Father Henry M. Alfred du Fougerais, Priest and General Moderator of the pious Confraternity of the Holy Infant Jesus, canonically established in the city of Paris, prostrates himself humbly before Your Holiness and earnestly requests that, for the next seven years, he may be granted the faculty, for all and each of the priests of this Holy Work of the Infant Jesus, wherever they may be, as well as for the Directors and members of any councils of the aforementioned Confraternity, and also for the Priests Prefects of Series, consisting of at least twelve members, to impart the blessing with a Plenary Indulgence to the faithful who are in the article of death. And God, etc. By virtue of special faculties granted by His Most Holy Father Leo XIII, the Holy Congregation, which presides over Indulgences and sacred Relics, benignly grants this favor, so that the priests, concerning whom is written in the aforementioned petition, with the permission of the local Ordinary, and provided that they have been approved to hear sacramental Confessions, may impart the blessing with the application of a Plenary Indulgence to the faithful who are rightly disposed and near death, observing the form and rite of the Constitution of the Most Holy Pope Benedict XIV, which begins "Pia Mater." This present grant is valid for seven years, without any further Brief being required. Notwithstanding any contrary decrees. Given in Rome, from the Secretariat of the aforementioned Holy Congregation, on the 19th of July, 1879. A. L.

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CARD. OREGLIA, Prefect of S. Stephano. A. Panici, Secretary.

[*Latin ed. p. 641*]

641 EX 5. APOSTOLIC PENITENTIARY. Declaration concerning certain suppressed and regular orders in Italy, dated May 21, 1880. (Version: The Superior General of a certain Regular Order proposed the following question to the Holy Penitentiary: Whether the faculty contained in n. XVII of the Instruction of the Holy Penitentiary dated April 18, 1867, can also extend to Italian religious subjects before they have made the solemn vow of poverty: that is, whether, when making their solemn vows, it can be granted to them by the superiors general to retain, etc., the ownership of legitimate goods and inheritances which they already possess; and the Holy Penitentiary, on May 21, 1880, gave the following answer to the same question:) The Superior General of a certain Regular Order proposed the following question to the Holy Penitentiary: Whether the faculty contained in n. XVII of the Instruction of the Holy Penitentiary dated April 18, 1867, (1) can also extend to Italian religious subjects before they have made the solemn vow of poverty: that is, whether, when making their solemn vows, it can be permitted to them by the superiors general to retain, etc., the ownership of legitimate goods and inheritances of which they already possess. To this question, the Holy Penitentiary responded on May 21, 1880, as follows: Negatively, but they must entirely renounce all right and ownership of the same goods, according to the constitutions of their own Order. Furthermore, the same Holy Penitentiary declares that its intention in granting the faculty expressed in n. XVII of the Instruction dated April 18, 1867, was never to allow the superiors general of regular orders to grant to their subjects in Italy the ownership or dominion of any goods, whatever their origin, which said religious, by reason of their solemn profession, acquire not for themselves but for the monastery or order. Given in Rome, in the Holy Penitentiary, on May 21, 1880. ALOIS. CARD. BILIO, PENITENTIARY MAJOR. Hip. Can. Palombi, S. P., Secretary. (1) See Collection, Vol. III, page 151; there you will find this Instruction. Acts, Vol. XII, page XLIV. 41.

[*Latin ed. p. 642*]

642 FROM THE HOLY CONGREGATION OF RITES. Decree concerning the administration of the Most Holy Sacrament of the Eucharist during the Paschal season, before or after the Mass for the Dead. From the current Director of the Calendar for the sacred performance of the Divine Office and for sacred celebration in the Archdiocese of Siena, the following question was proposed to the Congregation of Sacred Rites for appropriate declaration: When the Most Holy Sacrament of the Eucharist is to be administered during the Paschal season, before or after the Mass for the Dead, should the prayers and versicles of the season and the Alleluia be said? Furthermore, after careful consideration, and in response to the report of

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the undersigned Secretary, the Sacred Congregation of Rites judged it fitting to declare as follows: Affirmative concerning the prayers and versicles; negative concerning the Alleluia. And thus it was declared and ordered to be observed on November 26, 1878. Placidus Ralli, Secretary of the Sacred Rites. VALENTINEN. Decree concerning the prayer for the dead in conventual Masses, or concerning the same, when it is prescribed in private Masses for the dead; and concerning the bowing of the head at "humiliate capita vestra Deo" [lower your heads before God]. The Most Reverend Lord, Charles Cotton, Bishop of Valentinen, with humble supplications, requested that the Sacred Congregation of Rites would deign to resolve and declare the following questions: QUESTION I. From the rubrics of the Missal, title VII, number 6, it is established without any exception whatsoever that the commemoration for the dead should be placed in the Mass for the living in the penultimate place. Furthermore, different opinions are read in various authors, and there are not entirely lacking those who...

[*Latin ed. p. 643*]

DECREE 643, by decree of May 23, 1835, issued in Namur, affirms that the aforementioned commemoration, both in the conventual Mass and in private Masses, cannot be removed from its penultimate place among the collects, even if a collect is added by order of the Bishop, or from some other prescribed source, so that in such a case, the commemoration for the dead shall invariably occupy the place before the penultimate, notwithstanding the rubric of the Missal mentioned above. Therefore, the following is questioned: 1° Whether the commemoration for the dead, on the days prescribed by the rubric, must remain in the second place in the conventual Mass and in private Masses, if a collect is added in the fourth place? And 2° Whether, when commemorations occur in the aforementioned Mass, the collect shall at least occupy the place before the penultimate, when an obligatory prayer is added?

DOUBT II. Regarding the law of parity or oddity of prayers in Masses of simple feasts, it is commonly held, according to the decree of December 2, 1684, issued in Sanminiato, that the celebrant is not bound to an odd number of prayers when a collect for the dead is added. It is also questioned whether, in private Masses for the Requiem, if a collect is added by order for the dead, this may be added in the third place before the fourth prayer of the Faithful, without being obligated by the law of oddity?

DOUBT III. A certain declaration of the Holy Roman Church is circulated among many, according to which the priest celebrating privately during the time of Lent, and saying the prayer "Oremus" over the people, is bound to incline his head, saying only "Oremus," and then, with his head raised again, to add "Humiliate," etc. Testimony of this rite is given by the decree of the Holy Roman Church of March 16, 1833, issued in Verona; however, in the third edition of the Decretals, collected by Gardellini, nothing is found

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concerning this rite in number 4707. Therefore, it is questioned whether one should follow the aforementioned edition of Gardellini, or rather, previous editions? And in the case under consideration, whether the head should be inclined when saying only "Oremus," or also when adding "Humiliate," etc., as is sufficiently evident from the very words of the rubric of the Missal, title XI, number 27. The Holy Roman Church, having heard the opinion of the Most Reverend Assessor, and of the Cardinal himself, o.

[*Latin ed. p. 644*]

644 DECREE: After carefully considering the doubts presented, the following response was deemed appropriate in relation to the report of the undersigned Secretary: Regarding I. Among the collections prescribed by the rubrics, the collection for the dead should always occupy the penultimate place, and after it, the prayer or prayers ordered by the superior authority should be recited. Regarding II. Affirmative. Regarding III. Negative regarding the first part, affirmative regarding the second part. And thus it was decreed and ordered to be observed, on December 12, 1879. Decree concerning the albs and candles for the celebration of Mass. R. D. X . . . C... The following was presented to the Congregation of Rites by a priest, who requested an appropriate response: I. The practice is quite widespread in France that the candles which are lit for the recitation or singing of Mass are not made entirely of wax, but only for a small part, e.g., one-fifth or one-sixth. II. Also, in many churches, both in cities and towns of that region, albs are used for the celebration of Mass, made of linen in the upper part and cuffs, but of cotton in the rest, and certainly in the greater part, namely, even made entirely of cotton from the chest to the feet. Therefore, the aforementioned priest humbly requested of the Sacred Congregation of Rites, whether, in the case where he is required to go outside the church where he usually celebrates, either because he is called to preach, or to hear confessions, or for another reason, it is permissible for him to celebrate or sing Mass in those places with the aforementioned candles or albs, or whether he is obliged to abstain from celebrating Mass in those places as long as he lacks the canonical candles or albs? The same Sacred Congregation, having heard the opinion of another of the Masters of the Apostolic Ceremonies, deemed it appropriate to respond to the report of the undersigned Secretary in the following manner: The petitioner should acquiesce in the judgment of his Bishop. And thus it was decreed on March 8, 1879.

[*Latin ed. p. 645*]

645. DECREE of the Congregation of Rites concerning the Beatification and Canonization of the Venerable Servant of God, Elizabeth Sanna, Widow, Professed Tertiary of the Order of Friars Minor of Saint Francis. Whereas, on the fifth day before the Ides of March in the year one thousand

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eight hundred and sixty-four, the Most Holy Pope Pius IX had graciously granted permission that the matter of the signature of the Commission for the introduction of the aforementioned cause of the Servant of God, Elizabeth Sanna, be considered in an Ordinary Congregation of the Sacred Rites without the intervention and vote of Consultees, although less than ten years had elapsed since the presentation of the Ordinary Process in the records of the aforementioned Sacred Congregation, and neither the writings of the same Servant of God had been examined and reviewed; therefore, the Most Reverend Cardinal Constantinus Patrizi, Prefect of the same Sacred Congregation and Promoter of the Cause, at the request of the Most Reverend Mr. Raymond Pigliacelli, Canon of the Patriarchal Basilica of the Lateran, appointed Postulator of this Cause, and after considering the Postulatory Letters of several Most Reverend Cardinals of the Holy Roman Church, of other Sacred Prelates, and of other men distinguished by ecclesiastical or civil dignity, as well as of Religious Orders, in Ordinary Congregations of the Sacred Rites held at the Vatican on March 20, 1869, proposed the following question for discussion: Whether the Commission for the introduction of the Cause should be signed in this case and for this purpose? And the Sacred Congregation itself, after carefully considering all matters, and after hearing the opinion, both spoken and written, of the Most Reverend Peter Minetti, Promoter of the Holy Faith, decided to respond: Affirmative, that is to say, that the Commission should be signed, if it pleases the Most Holy [Pope]. However, since the same Supreme Pontiff, the Most Holy Pope, had not signed the aforementioned Commission, further petitions and prayers were presented.

[*Latin ed. p. 646*]

646 A decree concerning the present Archbishop of Reims, specifically, was sent to His Holiness Pope Leo XIII on the ninth day of April, 1880, by the Reverend Father Laurent Salvati, Promoter of the Holy Faith, who reported on the matter above. Hence, His Holiness deigned to ratify and confirm the judgment previously rendered by the Sacred Congregation, and with his own hand signed the Commission for the Introduction of the Cause of the Venerable Servant of God, Elizabeth Sanna, on the twenty-second day of the same month and year.

D. L. ffi

CARD. RARTOLINIUS

S. R. C.
PRAEFECTUS.
P. Placidus Ralli
S. R. C.

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Secretarius.

[*Latin ed. p. 647*]

647 SUMMARY OF THE PRINCIPAL POINTS CONTAINED IN THIS VOLUME, CHAPTER XI, AND IN THE APOSTOLIC LETTERS OF THE MOST HOLY FATHER, POPE LEO XIII, ADDRESSED TO THE ARCHBISHOPS AND BISHOPS OF THE ECCLESIASTICAL PROVINCES OF TURIN, VERCELLAE, AND GENOA, PAGE 3. ADDRESS OF THE SAME MOST HOLY FATHER TO THE REPRESENTATIVES OF CATHOLIC PERIODICALS, IN WHICH THEY ARE ESPECIALLY URGED NOT TO CEASE TO DEFEND WITH VOICE AND WRITING THE NECESSITY OF THE HOLY CHURCH, FOR THE FREE EXERCISE OF SPIRITUAL POWER. . . » 13 CONTINUATION: BY A MOTU PROPRIO OF THE MOST HOLY FATHER, POPE LEO XIII, A DELEGATION OF THREE CARDINALS IS ESTABLISHED, TO MANAGE AND OVERSEE THE PUBLICATION OF THE WORKS OF SAINT THOMAS AQUINAS. » 337 ENCYCLICAL LETTER OF THE MOST HOLY FATHER, POPE LEO XIII, TO THE PATRIARCHS, PRIMATES, ETC., CONCERNING CHRISTIAN MARRIAGE. » 385 LETTERS OF THE MOST HOLY FATHER, POPE LEO XIII, TO CARDINAL DE LUCA, PREFECT OF THE SACRED CONGREGATION FOR THE CULT OF STUDIES. » 225 LETTERS OF THE MOST HOLY FATHER, POPE LEO XIII, REGARDING THE WORKS OF SAINT ALPHONSUS OF LIGORI. » 273 LETTERS OF THE MOST HOLY FATHER, POPE LEO XIII, TO THE ARCHBISHOP OF COLOGNE; IN WHICH HE DECLARES THAT, FOR THE SAKE OF PROMOTING HARMONY, HE WILL ALLOW THE BISHOPS OF THE PRUSSIAN GOVERNMENT TO PRESENT NOMINATIONS OF CANDIDATES FOR THE CLERGY BEFORE THEIR CANONICAL APPOINTMENT. » 481 ADDRESS OF REVEREND FATHER TRIPEPI, GIVEN BEFORE THE MOST HOLY FATHER, ON THE FEAST OF THE CULTS OF SCIENCE, ON MARCH 7, 1880. 483 ADDRESS IN WHICH THE MOST HOLY FATHER, POPE LEO XIII, RESPONDED TO THE SCHOLARS, EXPRESSING GREAT JOY AT THE SERVICE RENDERED TO HIM BY THEM; AND HE PROMISED THEM THAT THE ANGELIC DOCTOR WOULD BE THE CELESTIAL PATRON OF ALL DISCIPLINES OF SCIENCE AND THE FINE ARTS. . . » 486 LETTERS OF THE MOST HOLY FATHER, POPE LEO XIII, TO THE BISHOP OF VIGLEBEN, IN COMMENDATION OF THE DOCTRINE OF SAINT THOMAS AQUINAS. . . » 275 ENCYCLICAL LETTER OF POPE GREGORY XVI, CONTAINING A NEW REPROBATION OF BIBLICAL SOCIETIES, ETC. » 545 ENCYCLICAL LETTER OF THE MOST HOLY FATHER, POPE LEO XIII, TO THE PATRIARCHS, PRIMATES, ARCHBISHOPS, AND BISHOPS; IN WHICH THE STUDY OF THE PHILOSOPHY OF SAINT

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THOMAS AQUINAS IS COMMENDED. » 97

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648 SUMMARY. FROM THE ACTS OF CONSISTORY Meetings Concerning the Consistory held on September 19, 1879... page. Concerning the Consistory held on September 22, 1879. Concerning the Consistory held on February 27, 1880. Se145 Se229 Fe433 FROM THE HOLY CONGREGATION OF THE COUNCIL, concerning Elections and Removals: It is discussed whether a decree of the Bishop, by which new official members of a sodality are appointed, and others recently elected are established, should be confirmed or annulled. 17 Dispensations from Irregularity: A priest, afflicted with apoplexy, who is unable to perform the sacred ceremonies with his right hand, requests a dispensation from irregularity. 28 Canonry: It is inquired who is eligible to present a candidate among those presented by the patron. 65 Participation in Laudables and Quindennales: It was doubted whether canons absent from their duties, with a resident coadjutor in the Curia, canons with permission to be absent from the city, and jubilant canons, can participate in laudables and quindennales. 70 Pension: It was inquired whether a cleric, transferring to a state of marriage, loses the right to receive an ecclesiastical pension. 74 Doubt concerning an Impediment to Marriage: In this, the ACTS are extensively discussed, concerning whether the act, which civil law calls marriage, constitutes an impediment to public justice and honesty. 147 Dispensation from Marriage: It is discussed whether a marriage duly contracted remains only valid, so that a dispensation can be requested from the Holy Pontiff. 177 Nomination: Canons request from the Apostolic See whether they can safely remain in the administration of the sanctuary, together with secular clergy who now hold the highest offices, after canons have been removed from it. 187 Lingon and Touron: Concerning the faculty of blessing: A request is made to the Apostolic See for the faculty of blessing, even on certain suppressed feast days. 232 Jubilation: It is discussed whether an indulgence of jubilation can be granted to two beneficiaries who have held prebends for forty years with a collated title. 237 Dispensation from Irregularity: A cleric requests a dispensation from irregularity, to whom the index of his left hand remained shortened since childhood. 240 Deprivation of a Parishes: It is inquired whether the sentence of the Ordinary should be confirmed, and whether the parish priest should be deprived of the parish. 243 Inhibition: It is discussed whether the decree, by which the Ordinary forbade the celebration of Mass at the eighth hour in an oratory built within the walls of a hospital, should be confirmed or annulled. 249 Maintenance and Instruction: In

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SUMMARY OF CASES. In which is discussed whether a Vicar, who was

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considered removable, should be maintained in possession of his vicarage, after it had been declared that the vicarage was perpetual, and whether he should be appointed by the Chapter or by the Bishop. . . . » 276 Concerning Perpetual Vicars; various doubts concerning the perpetuity and removal of certain Vicars are resolved. » 284 Concerning Dismemberment; it is inquired whether, for the sake of a dismembered cause, and whether a new parish should be erected, it could be granted by the Most Reverend. » 287 Concerning Dispensation from Marriage; it is discussed whether the marriage has been consummated, and whether just causes are present for obtaining a dispensation. » 339 Concerning the Right to Funeral Rites; there is a dispute between a Monial's Chaplain and the Parish Priest, as to whether the right belongs to them to perform the funeral rites and burial of the bodies of Monials, and of other deceased persons in the religious house, and those who die there. » 364 Concerning Distributions; it is inquired whether, at least by grace, customs that are contrary to the law can be maintained, with regard to the choral service. » 353 Concerning Dispensation; burdened by grave causes, the Prior, with the care of souls, requests a dispensation regarding the obligation of personally performing the examination and administering the sacraments. » 361 Concerning Indulgences and Fruits; because of the threats of the Ie Thai, a Canon requested a dispensation from the choir and from residence, in order to spend a certain time in Rome, as is fitting. » 365 Concerning Marriage; a marriage was hotly disputed to be null, on the grounds of coercion and fear. » 403 Concerning Testaments; it is inquired about the nature of legacies of Masses: namely, whether they are temporary or perpetual. » 445 Concerning the Right to Institute; there is a dispute between two Ordinaries as to to whom the right belongs to institute in certain benefices, after the dismemberment of the Diocese. » 452 Concerning the Care of Souls; there is a dispute between members of the Chapter, as to how the care of souls, which belongs to the Chapter, should be exercised. » 489 Concerning those Deputed to the Seminary; the Bishop inquires whether certain customs in his Diocese, which are unusual with regard to the election of Deputed members for the Seminary, can be safely maintained. » 492 Concerning Precedence; it was hotly disputed whether the Prefect of the Chapter is always entitled to the first stall in the choir, or only in certain sacred functions. . . . » 503 Concerning Masses for the People; the Bishop of Gallia inquires whether the Parish Priests of his Diocese can abstain from the application of a Mass for the people on feasts suppressed by the Concordat, although they have obtained an indulgence from the Holy Roman Church, whereas this custom is disapproved of by subsequent Encyclical letters of the Supreme Pontiff. » 514 Concerning Rights and Preeminences;

[*Latin ed. p. 650*]

650 SUMMA ACTORUM. Rochus et communistae contendunt de

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iuribus et praeeminentiis quae sacrae functiones, et de aliis multis rebus...

551 Reintegrationis in Paroeciam; disceptatur si confirmanda vel infirmanda sit sententia Episcopi, qua Parochus a paroecia remotus fuerat.

563 Circa titulos S. [Ordinationis]; exquiritur si confirmari queat consuetudo in Mexicana Provincia existens, ad sacros Ordines promovendi Clericos titulo administrationis...

569 Exercitiorum spiritualium; quaeritur si Episcopus iubere possit presbyteros suae dioecesis adesse exercitiis spiritualibus, et si aliqua poena afficere possit renuentes...

611 Dispensationis ab irregularitate; iuvenis clericus dispensationem a vitio irregularitatis expostulat ob debilitatem facultatis visivae.

613 Absolutionis et exonérationis; dubitatur si absolutionis et exonerationis onerum Missarum concedendae sint patrono, aere alieno gravato.

615 Dispensationis ab irregularitate; dispensari ab irregularitate expostulat Paschalis, homicidio contracta...

620 Dispensationis matrimonii; exquiritur si peti possit dispensatio super matrimonio rato et non consummato...

624 EX S. CONG. EPISCOPATI REGULARI Canonicorum Regularium super natura votorum; disceptatur si Canonici Regulares S. Aegidii V. vota emittant sollemne, et si subdi debeant Episcopo.

79 Reductionis quoad taxam utensilium; discutitur si taxa duodecim scutatorum pro utensilibus reducenda sit, cum reductus fuerit numerus Missarum.

294 Super iure deferendi Crucem et celebrandi Funera; expostulat Minister Patrum M.M. Observantium, si Capitulum Cathedralis ius habeat peragendi in eorum ecclesia funera, et Missam de requiemcanendi pro suis collegis et benefactis.

298 Super liquidatione Pensionis: disquiritur si confirmanda vel infirmanda sit Ordinarii sententia, qua resolutum fuit, ne pensio ecclesiastica rependeretur.

423 Transactionis, disceptatur de validitate transactionis peractae inter ordinem religiosum, et membrum e religione egressum; eo quod laesione infecta putaretur.

519 Decretum quo confirmatur et approbatur statutum piae Sororum Societatis, ab adoratione perpetua SSmi Sacramenti, nuncupatae.

587 Peremptionis appellationis; quaeritur si appellatio perempta fuerit, ita ut concedi possit causae, iam resolutae, expeditio.

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[*Latin ed. p. 651*]

SUMMA ET EX SACRA CONGREGATIONE DE PROPAGANDA FIDE. Instructio de modo quo Episcopi Americae Septemtrionalis causas crim-

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inales et disciplinarias clericorum cognoscere et definire debent. . . » 88 Litterae ad D. Desgaretz, praesidem consilii centralis Lugdunensis, quibus pium opus de Propaganda Fide non comprehendi a decreto S. C. Indulgentiarum diei 3 Aprilis 1878 asseritur. » 430 EX SACRA CONGREGATIONE RITUUM. Hydruntina; de beatificatione et canonizatione Venerabilis Servi Dei Vincentii Mariae Morelli, ex Congregatione Clericorum Regularium Theatinorum et Archiepiscopi Hydruntini. » 31 Venetiarum: duo quaestiones proponuntur de usu stolae in administratione S. Eucharistiae extra Missam. » 95 Venetiarum: duo dubia proponuntur solvenda de exequiis pro Episcopo, Archiepiscopo, etc., et de tempore in quo nomen Episcopi dicendum sit in Canone Missae. » 95 Decretum Urbis et Orbis: quo decernitur festum S. Joachim et S. Annae a ritu duplicis majoris ad ritum duplicis secundae classis elevari. » 126 Murana seu Compsana; de beatificatione et canonizatione Venerabilis Servi Dei Fr. Gerardi Maiella, laici professionis Congregationis SSmi Redemptoris. . . . . 128 Decretum: Cochinchinensis, Tunquinen et Sinarum; de beatificatione seu declaratione martyrii Venerabilium Servorum Dei Stephani Theodori, Episcopi Metellopolitani, etc. » 190 Marianopolitana; de beatificatione et canonizatione Servae Dei Margarithae Bourgeoys, fundatricis Congregationis Sororum Dominae Nostrae. » 255 Camerinen. de canonizatione B. Baptistae Varani, filiae Iulii Caesaris Cameritium ducis, monialis professae ordinis Clarissarum, fundatricis monasterii S. Clarae Civitatis Camerinesis. . . » 321 Romana seu Ianuen. de canonizatione B. Ioannis Baptistae de Rubeis, Confessoris, canonici Basilicae collegiatae S. Mariae in Cosmedin. » 328 Litterae in forma brevi, quibus conceditur, ut in universa Ecclesia festum et officium Immaculatae Conceptionis celebretur sub ritu duplicis primae classis. . . » 331 Taurinen. de beatificatione et canonizatione Venerabilis Servi Dei Iosephi Benedicti Coltolengo, Canonici Sacerdotis et fundatoris instituti Taurinensis parvae domus Divinae Providentiae. » 332 Ordinis minorum S. Francisci conventualium; dubia circa Missam transferendam in exequiis defunctorum. » 333

[*Latin ed. p. 652*]

652 SUMMA Neapolitana concerning the beatification and canonization of the Venerable Servant of God, Father Franciscus a Laculibero, a professed priest of the Order of Friars Minor, of the Capuchin Fathers.

334 Decree by which it is granted that the feast of the Immaculate Heart of the Blessed Virgin Mary may be observed with a double major feast.

335 Augustodunum. Concerning the beatification and canonization of the Venerable Servant of God, Father Claudius Colombière, a professed priest of the Society of Jesus.

431 Decree by which to the Sisters of St. Vincent de Paul, of the city of Castellamare, it is granted that on the 19th of July, all Masses may be recited in their church for the feast of St. Vincent.

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463 Neapolitana concerning the beatification and canonization of the Venerable Servant of God, Januarius Maria Sarnelli, a priest of the Congregation of the Most Holy Redeemer.

464 Decree concerning the administration of the Blessed Sacrament of the Eucharist during the Paschal season, before or after Masses for the dead.

642 Valentinen, decree concerning prayers for the dead in conventual Masses, or concerning the same when it is prescribed in private Masses for the dead; and concerning the bowing of the head in humility before God.

642 Decree concerning the vestments and candles for the celebration of Mass.

644 Decree; Roman or Turrillan concerning the beatification and canonization of the Venerable Servant of God, Elizabeth Sanna, a widow, a professed tertiary of the Order of Friars Minor of St. Francis.

645 EX S. CONGR. INDULGENTIARUM (From the Sacred Congregation for Indulgences). Engolismen. It is questioned whether the consent of the parish priest is necessary for the erection of stations of the Way of the Cross, and whether the consent of the Ordinary is required for each case, or whether a general consent is sufficient, for the erection of stations in a certain number of churches, etc.

116 Smirna. It is inquired whether the blessing of the stations of the Way of the Cross should be performed before their affixation, or whether it is sufficient to have it performed afterwards.

122 Decree of the City and the World by which a plenary indulgence is granted for the upcoming Jubilee of the Dogmatic Definition of the Immaculate Conception of Mary.

272 Supplex Libellus (Humble Petition) of the Bishop of Cremona, in which it is requested that the Most Holy Father deign to grant some indulgence to the prayer attributed to the blessed Thomas Aquinas.

460 Decree by which a hundred days' indulgence is granted to those who recite the canticle "Magnificat anima mea Dominum."

426 Three decrees, by which various privileges are granted to the confraternity called "Of the Holy Infant Jesus."

638 EX S. CONGR. INDICIS (From the Sacred Congregation of Indices). Decree of the book; Decree of the book by which several are prohibited; 93 are prohibited.

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[*Latin ed. p. 653*]

SUMMARY OF ACTIONS. FROM THE SACRED BRIEF *CONGR. BREVIUM* by which Sodalities dedicated to the perpetual adoration of the Most Holy Sacrament, etc., are enriched with an Indulgence, to be gained

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on various days of the year. » 588 Letters concerning a fifty-day Indulgence, which can be gained once a day, by kneeling before the bronze statue representing Saint Peter. . . » 591 Letters in the form of a Brief, by which the Apostolic Vicariate of Hunan is divided into two parts, the northern and the southern. The northern part is erected as a distinct Vicariate and is entrusted to the Augustinian Fathers of the Province of the Philippine Islands. » 636 FROM THE SACRED PENITENTIAL APOSTOLIC DECREE. Declaration concerning certain privileges granted to Regular Canons suppressed in Italy. . . » 641 APPENDICES Appendix L. Many decrees of the Sacred Roman Congregation are cited, taken from Appendix IV (to be added to the Gardellinian collection), page 653. » Appendix II. Here are cited other decrees, taken from the aforementioned Appendix IV. » 129 Appendix III. Authentic decrees of the Congregation of Sacred Rites, collected from its acts. » 193 Appendix IV. Here are cited further authentic decrees of the Sacred Roman Congregation, collected from its acts. » 305 Appendix V. Here are cited further authentic decrees of the Sacred Roman Congregation, collected from its acts. » 369 Appendix VI. Authentic decrees of the Sacred Congregation of Rites, collected from its acts. » 465 Appendix VII. Here are explained various questions concerning the manner of electing representatives of Seminaries. » 497 Appendix VIII. Authentic decrees of the Sacred Congregation of Rites, collected from its acts. » 529 Appendix IX. Concerning donations and renunciations made by novices before the two months immediately preceding their religious profession, etc. » 577 Appendix X. Authentic decrees of the Sacred Congregation of Rites, collected from its acts. » 693

[*Latin ed. p. 654*]

654 GENERAL INDEX OF CONCLUSIONS WHICH ARE AMPLY DISCUSSED IN MOST SECTIONS, AND FROM WHICH, THROUGH EXAMINING THE ACTS IN THIS VOLUME, THE CONTENT OF EACH MATTER IS CLEARLY UNDERSTOOD. These conclusions are included under the following terms:

Absolution and remission:

Bishop regarding statutes and the parish regarding absence.

Canonical insignia.

Parish regarding dismemberment.

Exemption.

Aperitio oris (Opening of the mouth – likely referring to confession).

Appeal.

Impediment to public office.

Parish regarding deprivation.

Sacred patrimony.

Benefices regarding union.

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Ecclesiastical pension.
Canons regarding precedence.
Institution.
Regulars regarding renunciations.
Irregularities.
Parochial rights.
Communion.
Rescript.
Confraternity regarding the election of officials.
Rights and privileges.
Laudemium (A fee paid for certain ecclesiastical services).
Itesi udicata (A judgment that has become final and unappealable).
Custom.
Marriage regarding dispensation.
Seminary regarding appointed individuals.
Station of the Way of the Cross.
Dispensation regarding age.
Marriage regarding impediment of force and fear.
Election regarding canonical prebends.
Vicarius paroeciae (Parish vicar).
Mass regarding application.
Binatio Missarum (Doubling of Masses).
Burden of Masses.
Parish priest regarding removal.
Absolution and remission of burdens of Masses.

Absolution for past omissions of Masses cannot be granted, unless there is a reasonable cause or just compassion; and this absolution implies a remission and condonation of what one is obligated to pay by law. p. 618.

Hence, the canons clearly state that no one can receive the grace of absolution who, maliciously and with the hope of obtaining this kind of absolution, has dared to omit the celebration of Masses, as Innocent XII states. Recently, the Congregation, ibid.

Even relative poverty provides a suitable reason for absolution of uncelebrated Masses, and for proportional exemption in the future; for it is gathered from the Treasury of the Holy Congregation that such grace has often been granted, simply with the addition of relative poverty. Ibid.

The Sacred Congregation, with some salutary penance imposed, is accustomed to grant absolution for past omissions, when it is clear that the Masses were not celebrated through the fault of the legate, and that there are not sufficient revenues remaining to satisfy for past omissions. p. 619.

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This is derived from resolutions...

[*Latin ed. p. 655*]

INDEX: To the Congregation, extreme poverty is considered a legitimate reason for granting absolution and dispensation, especially when it concerns the relatives of the founders, whose poverty is very grave. Ibid. Indeed, it is a presumption of law that the founders did not intend to burden their relatives with so many obligations, especially when these relatives are unable to bear them due to serious family hardships. Ibid.

Opening of Proceedings: An opening of proceedings must be obtained even against a papal rescript given orally, whenever it is established that said rescript possesses the true nature of a legal document. Page 528. An opening of proceedings is not granted when it has been proven that the Pope was not deceived, either by trickery or by deceit. Ibid. Trickery and deceit are excluded when nothing was omitted that should have been reported, nor was anything added that did not correspond to the truth. Ibid.

Appeal: Ordinarily, an appeal is not admitted from an interlocutory or provisional decree, unless it has the force of a final sentence or inflicts a harm that cannot be remedied in a final judgment. Page 27. However, an appeal may be interposed from any sentence, or from any provision of a judge, by which someone feels aggrieved, whenever the opposing party does not demonstrate a limitation [of the judgment], which in cases of doubt is not presumed, but must be proven. Page 634. Nevertheless, the time for pursuing an appeal, by law, cannot exceed one year, or at most two years, unless a clear reason is shown. Page 635. Therefore, in the absence of a legitimate impediment, the benefit of an appeal seems to be lost to one who has not pursued the same appeal within the time established by law. Ibid. It is the nature of judgments that each person should receive what is due to them; otherwise, sentences would be improperly delayed, depending on the will of the losing party, so that they would not become final judgments, and endless disputes would arise, because the party would neither abandon nor pursue the appeal. Ibid.

Benefits: The union of benefits cannot be carried out unless there is a serious reason, and evident benefit to the Church, with the consent of ecclesiastical authority; because the union, with respect to the benefit to be united, is odious and appears to be an act of alienation. Page 458. Therefore, such a union of benefits is not presumed, but must be demonstrated with certain arguments; and if these are lacking, it must be considered that it has not occurred; because through the diminution of benefits, the number of priests must be diminished, and cui-

[*Latin ed. p. 656*]

656 GENERAL INDEX. the divine detriment, page 459. must suffer. The endowment, or benefice, as an accessory, follows the nature and essence of

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the benefice itself; therefore, it is said to reside where the office is exercised, ibid. The true and proper union of benefices is that which is called subjective and constitutive; and by which a united title, in a certain way, becomes the seat of that to whom the union is made, ibid. A canon, with regard to precedence, can be argued, by the example of the divine institution, in which one was chosen from the twelve Apostles, with the intention that the opportunity for schism might be removed by a constituted head; that no head is required without a superior, just as no body exists whose members are not joined to a head, p. 512. To demonstrate the prerogative of a certain dignity, the pontifical appointments of the same dignity may suffice; and according to rule 4 of the Apostolic Chancery, the higher dignities are reserved to the Pope, after the pontifical appointments, and the first dignities are designated as such in collegiate churches, ibid. Therefore, those named by the Pope ought rightly to precede all other canons and dignities of the same chapter in all acts, whether they are performed outside the church while walking, or inside the church while seated, because even if such dignities, named by the Pope, are outside the chapter, they are nevertheless part of this body, and are more distinguished members, page 513. Therefore, the seats of absent dignitaries may not be occupied by other dignitaries or canons, but each must remain in his own stall, according to the assigned order, ibid. Agreements and conventions entered into among chapter members, by which precedence is granted to a person of lower rank over a person of higher rank, cannot be maintained; because the most excellent order in ecclesiastical degrees would be destroyed, and ecclesiastical discipline would be weakened, ibid. Parishes. Parishes, or recipient churches, differ from collegiate churches in many respects, and especially with regard to the care of souls; for in collegiate churches, the care of souls, exercised by a designated person, belongs to the chapter, whereas in recipient churches, the care of souls, both habitual and actual, remains with the same parish priest, page 561. When the original charter of the institution of a church still exists and is open to all, no one seems to be able to doubt the nature of that church, nor is it permissible to resort to indications and conjectures, because reason and law indicate that these remedies should be used in cases of uncertainty, but certainly not when the matter is clearly known, ibid.

[*Latin ed. p. 657*]

657 GENERAL INDEX. "Confraternity concerning the election of officials. In Confraternities, the election of officials pertains to the confreres. page 26. For an election to be considered free and legitimate, it requires: 1. That a proper notification be made to the confreres; 2. That the confreres complete the election through secret ballots; 3. That the one who receives the majority of the votes of the present confreres be declared elected, ibid. This is according to common law; however, this form of election may be

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modified, or even a new form introduced, by the statutes or custom, provided that the freedom of the election remains intact, ibid. Custom can invalidate even constitutions issued by the Popes, even those strengthened by privilege, or even those containing a nullifying decree and a clause that has been repealed, by a contrary and immutable custom, page 303. Observance of the law, being closely related to and contemporaneous with it, claims great authority and is considered in the interpretative process, as the best precedent, Vol. XII, p. 44. Especially if it has been followed by the majority and more established part; for, as stated in Z. 18 ff. concerning received opinions, it is considered that whatever the majority has judged, all have judged, page 519. Dispensation regarding age. A dispensation from the age requirement is rarely granted by the Pope, unless there is a just and reasonable cause, page 70. A very urgent cause, whether it be in the public good, or in the great benefit of the Church, or in the greatest dignity of a person, is required in order for a boy to be considered worthy to be among the canons, ibid. Choral distributions. It is certain that, according to what was decreed by the Council of Trent, session 24, chapter 12, concerning reform, canons who are absent from the choir cannot perform the choral duties that are due to them, and these duties are due only to those who are present at the stated hours, while the others are to be deprived of them, unless there is collusion or remission, page 360. When a beneficiary is excused from attending the choir and is living in the place of the benefice due to a serious bodily necessity, it is all the more to be considered that he should be excused from both, due to grave enmities and mortal threats: for no bodily necessity is more serious than that which compels us to protect our lives from unjust and seriously inflicted threats, page 368. Such injuries and... 42

[*Latin ed. p. 658*]

658 INDEX GENERALIS. Those who, undeservedly, endure hardships, become participants in the distribution of the choir, especially if they have been accustomed to frequenting the choir in previous times. Ibid. Election concerning Canonical Benefices. For the election to a vacant canonry in the Cathedral Church, it is required that the cleric be at least twenty-one years of age, so that he may be promoted to the order of subdeacon within the year. Page 70. This provision applies to the canonries of Cathedral Churches, although no attached order has been established for these. Ibid. Knowledge is divided into three degrees, namely, the highest, the moderate, and the sufficient. This last is sufficient for promotion to ecclesiastical dignities and offices, according to the duties of the benefice and the qualities of the place. Ibid. The Bishop concerning Confraternities and Public Oratories. The Bishop has the power to establish pious sodalities, to oversee the administration of their assets, so that the pious cause may not suffer any detriment, to attend their meetings, either in person or through his delegate, where the election of officials takes place; however,

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he cannot interfere in the administration, nor introduce innovations that, especially, diminish or abolish the rights of the confreres. Page 27. For grave reasons, the Bishop can provisionally suspend elected officials, and take measures to ensure that the pious cause does not suffer detriment; however, he cannot definitively appoint new confreres or officials, although he has the right to confirm duly elected officials before they assume office. Ibid. According to the Council of Trent, it is the duty of Bishops not only to protect the administration of temporal affairs in monasteries, colleges, and other pious institutions, but above all to ensure that order and laws are observed, discipline is promoted, and charity and piety towards the poor are fostered. Page 253. Oratories and chapels erected in hospitals, orphanages, and prisons, are to be considered as public, and are in no way included under the Tridentine decree, which only refers to oratories erected in private homes. Page 254. Although everyone may attend the sacred mysteries in any church, provided that the chapel or oratory is not private, because the precept of attending the parochial Mass has been requested, contrary to a custom received throughout the world. Ibid. By virtue of the general force of this custom, Ordinaries cannot order their subjects to attend the parochial Mass; since this custom prevails throughout the world, it takes on the nature of common law, against which nothing can be done by the Bishop. Ibid.

[*Latin ed. p. 659*]

INDEX GENERALIS. Est tamen relictum ad prudens arbitrium Episcoporum, in synodo vel extra, ut prohibeant, ne in oratoriis publicis et capellis ullae Missae celebrantur ante Missam parochialem; et quia Episcopi, cum pastores Christianorum fideles sunt, omnia removendi sunt obstacula, quae oves suas abstrahant a pabulo verbi Dei. Ibid. Cum fideles praecepto non possint adire ecclesias parochiales, sed tamen monendi sunt; ideo Episcopi non delebunt consuetudinem generalem, cum obstacula removent, sed videntur intimius sequi Tridentini mentem Ordinarii alloquentis, ut moneant etiam eundem populum, ut frequenter ad suas parochias, saltem diebus dominicis, et maioribus festis, accedant. Ibid. Episcopus, quoad spiritualia exercitia, Locorum Ordinarii pro bono animarum, et pro recto earumdem regimine, leges edere potest, tum in Synodo Dioecesana, tum extra, etiam sub poenis; dummodo leges huiusmodi iuri communi non adversentur. Pag. 612. Lex sanctionis expers, ex communi sententia Doctorum, concipi non potest: nam lex necessarium habet nexum cum sanctione, ne inutilis aut inefficax evadat, et impune violatur. Ibid. Hinc perperam facultate Episcopi pollere videtur condendi leges in sua Dioecesi, quatenus simul legibus eiusdem aut statutis poenam aut sanctionem aliquam addere non possint adversus obedientiam renuentes. Ibid. Facile deprehenditur, quod lex, qua Episcopus presbyteros suae Dioecesis iubet sacris interesse exercitiis, neque ordinariae potestatis

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fines excedit, neque iuri communi adversatur, sed potius eidem apprime consona est. 613. Romani Pontifices enim in suis Constitutionibus praescribunt sacra haec exercitia; neque frustra, quia sacerdotes omnes, cum praebeant exemplum operum in doctrina, in integritate, in gravitate, compertum est nihil aptius ad ordinis sacerdotalis sanctimoniam eosdem perducere, quam praxis aliquando vacandis spiritualibus exercitiis. Ibid. Episcopus, quoad statuta et insignia canonicorum, Ordinarii facultate pollent moderandi, saltem in accidentalibus, statuta ab Episcopo tantum confirmata; etsi huiusmodi facultate antecessores haud usi fuerint; quia in facultate praescriptio non currit, nisi praecedente prohibitione et legitima acquiescentia. Pag. 562. Insignium et habituum, eorumque colorum a canonicis in choro gestandorum concessio, Apostolicae Sedi reservata est, nullamque super his Ordinarii locorum auctoritatem exercere possunt. Ibid.

[*Latin ed. p. 660*]

660 INDEX GENERALIS. Exemption. Exemption from episcopal jurisdiction is not required for the religious state as a necessary condition, nor does it pertain to its essence, since episcopal jurisdiction can coexist with solemn profession, as is the case with certain monastic orders, some of whose houses are subject to the Ordinary. page 87. By the authority of the 25th Session, Chapter 8, of the Council of Trent, concerning the regulation of bishops, bishops can, as delegates of the Holy See, subject a religious community, which does not belong to any congregation with other religious families, to their jurisdiction, to be governed by its own superiors or supervised by visitors. Ibid. The Sacred Congregation of the Eastern Churches and Regular Canons, which usually protects the exemption of religious orders, sometimes prudently permits, for a reasonable cause, that a religious community be temporarily subject to the Bishop, as a delegate of the Apostolic See, and not as the local Ordinary. page 88. Impediment to public decency. That act, which is commonly called "matrimonium iustum," or a legitimate marriage, undertaken by those who are already legitimately joined in religious matrimony, or who intend to be joined soon, for the benefit of themselves and their offspring. page 176. However, this ceremony, although tolerated by the Church, as it is understood and commonly received, is not equivalent to any ecclesiastical effect; both because of the lack of jurisdiction in the one who enacts the law, and because of the lack of intention in the contracting parties, who, since they are Catholics, are presumed to act as Catholics. Ibid. Therefore, this ceremony, when considered in itself, unless particular circumstances suggest otherwise, cannot be considered either as a betrothal or as a clandestine marriage in the sense of the Church; therefore, the opinion of those who maintain that it is either a betrothal or a clandestine marriage, without making any distinction, is entirely to be rejected. Ibid. Finally, the opinions of theologians

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and canonists regarding clandestine marriage, as to whether it constitutes an impediment to public decency, remain in the same state as they were before the resolution of this Holy Congregation. Ibid. The institution of civil marriage, which the Church has always detested, insofar as it intends a legitimate and marital union; however, the ceremony is tolerated as a mere civil act, by which the Bishop, by common law, has the intention to exercise all his jurisdiction within the boundaries of his diocese, and has...

[*Latin ed. p. 661*]

INDEX G concerning the legal impediments to the institution of benefices, from canon 16, question 7, page 459. The Roman Pontiffs seem to have decreed that irregularities arise from defects of the body, in mutilation, weakness, and deformity; through which the minister of the Church either cannot properly perform his sacred office, or causes horror and derision among the people, page 30. Speaking of these causes of irregularity, Pope Eugene, in Chapter II of the book *Presbyterorum de Clericis Aegrotis*, states concerning a priest to whom the middle part of the palm of his hand, along with two fingers, had been amputated, that he is not permitted to celebrate, because "neither can this be done without danger, on account of the weakness, nor without scandal, on account of the deformity of the member," page 31. A bodily defect, occurring after the reception of the orders, does not simply cause irregularity, but only with regard to those actions which, on account of such an impediment, the ordained person cannot perform without scandal, danger, or irreverence, ibid. A priest to whom some bodily defect occurs, through which he becomes irregular, must immediately expose this to the Apostolic See, and obtain a dispensation, which is now more easily granted than promoted, ibid. Among the offenses that prevent one from receiving sacred orders and from exercising them, muteness, or the murder of oneself or another, is especially noted, page 623. Therefore, according to the Council of Trent, he who, of his own will, has committed murder, either by himself or through another, must be removed from the order, benefice, and ecclesiastical office, even if such a crime has not been publicly proven, nor has been confirmed by any judicial process, ibid. For it is unbecoming for him to handle the immaculate blood of Christ, whom the faithful recognize as having been stained with their own blood, ibid. However, according to the disposition of the law, he who has committed murder not intentionally, but by chance, or by force in defending himself from certain death, is not excluded from sacred orders and the ministry of the altar, ibid. Therefore, he who, not being able to avoid death in any other way, has killed his attacker, cannot be considered outside the canon; for, as nature teaches us, we are inclined to use force to repel force, and to undertake the protection of our lives, ibid. Regarding this matter, the murderer is considered outside the canon, and also outside the canon, who kills the aggressor by doing more than

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what right reason suggests to repel the injury; for if all laws proclaim that it is permissible to repel force with force, they also imply that this must be done with moderation, for the sake of innocent protection, ibid.

[*Latin ed. p. 662*]

662 INDEX I. Concerning Rights: By the most recent ecclesiastical jurisprudence, it is established that public cemeteries are considered to be substituted for the burial grounds of individual churches; therefore, the right of burial has not been abolished, but only altered materially in the location. page 304. Religious families enjoy the privilege of exemption from the jurisdiction of the parish priest only if they truly reside in a regular state; or if they emit the three solemn vows, and live under a rule approved by the Apostolic See. page 352. The parish priest may oppose, and interrupt the appeal from the episcopal concession, whenever the erection of a new convent infringes upon any of the parochial rights. ibid. Therefore, bishops must take care not to infringe upon the rights of the parish priests when granting permission for a new convent to be erected within their territory; and since parochial rights arise from common law, against which the local ordinaries can do nothing. ibid. I. Rights and Preeminences: Since substitution by law takes place in the place where the substitution occurs, therefore the parish priest's economist succeeds to all the rights and preeminences of the parish priest, with regard to the care of souls and all parochial functions. page 561. Therefore, even at parochial funerals and processions, it belongs to the parish priest's economist, to walk in a more dignified place, wearing the stole. page 562. Laudarium: In common language, the laudarium is that part of the price, or emolument, which is paid by law directly, when a thing held in emphyteusis is transferred to the same person, and is then transferred to another through a new contract of emphyteusis. page 74. Since the property of the Church and of pious institutions cannot be sold, therefore, in distinction to the direct owner, access to the receipt of the laudarium is prohibited, unless custom, tacitly sanctioned by law, establishes that after fifteen years of the emphyteutical holding, the property is to be divided, and instead of the laudarium, a payment is made for fifteen years. ibid. Neither canons who are absent, even if assisted by a coadjutor, nor those who reside outside of Rome with a pontifical indult, nor jubilant canons, can enjoy the distribution of the laudarium and the fifteen-year payment. ibid. Concerning Marriage: When there is no hope of future reconciliation and simultaneous cohabitation, the Holy Pontiffs often grant the requested grace of dispensation concerning a marriage that is valid but not consummated. page 185.

[*Latin ed. p. 663*]

The Roman Pontiffs diligently strive, to the best of their abilities, to address the dangers of scandals and all evils that threaten the Christian faith-

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ful, even resorting to dispensing with the strictness of the law when it is necessary: for they know that it is of great benefit to the common good to avoid scandals. And therefore, when it has been proven that carnal union has been absent, a just cause is presented for dissolving the marriage through the alienation of the spouses; not so that they may fall into adultery, or be forced to remain in a state of discord, but so that the good of peace may be restored between them, and this bond, which is a source of perpetual discord, may be removed. However, as a primary and necessary foundation for dissolving marriages, moral certainty of the lack of consummation must be present; for although a dispensation by grace may be granted, it cannot be valid unless it is clearly established that the marriage was not consummated. Once moral certainty of the lack of consummation has been obtained through other means, the Supreme Pontiff sometimes dispenses with the examination of the woman's body, deferring to his supreme authority, by which laws and regulations may be modified, changed, or dispensed with. Since in such matrimonial cases, the matter at hand is not the legal right of either party, but primarily the dissolution of the sacramental bond, the Apostolic See has rightly and prudently provided norms and regulations (NERALIS. 663) to ensure that the proceedings are carried out properly and that the truth is safely investigated. These most wise rules are not to be treated superficially or at the discretion of the judge, but must be considered as fundamental proofs of the lack of consummation and essential requirements for the judgments; so that, if they are lacking, all proceedings are rendered null and void. As a substantial procedural form is prescribed, the spouses, in addition to their judicial testimony, must swear before the judge that they have never been united in the flesh, and an examination by seven witnesses from each side (a "seventh witness" examination) must be conducted, along with an examination of the body. Therefore, it is not correct to say that the ancient law (which prescribes all of these things) has been changed, but rather that it has been confirmed, inasmuch as, by a Constitution, by the mercy of God, and by the Instruction of the Sacred Congregation, the examination of matrimonial cases is reserved to the Fathers of the Council of Trent, or to any special Congregation of Cardinals for a consultative opinion. However, it must be remembered that these substantial procedures in matrimonial cases can be waived by the supreme authority of the Supreme Pontiff, since they pertain to discipline, provided that moral certainty of the lack of consummation can be obtained through other means.

[*Latin ed. p. 664*]

664 GENERAL INDEX. Marriage, concerning impediments, force and fear. Marriage cannot be dissolved by any agreement, and is not contracted whenever force or coercion intervenes; for marriage is perfected by mere consent, and if this is lacking, it must be considered as having been null and

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void. p. 420. Since greater freedom is required in marriage than in other contracts, marriage can be declared invalid even for reasons that would not suffice to invalidate civil contracts, ibid. Therefore, marriage must be judged by a special law, and since it contains a permanent union of life, it cannot be dissolved by the withdrawal of either party, as can other civil contracts, but may produce many evils, both for the soul and the body, ibid. Moreover, violent persuasions are to be considered such as can weaken the mind, therefore, whenever it is established that free consent was lacking, it is not necessary to prove that force or great fear was applied: for many things can deflect the mind, which do not strictly pertain to force and fear, p. 421. Great aversion and repugnance, manifested by lamentations and continuous protests, can remove consent from those entering into marriage, ibid. It is held by Canonists that fear falling upon a steadfast man, is a long-lasting indignation without hope of reconciliation; for it is considered a grave evil to always have before one's eyes the offending person from whom one depends, ibid. Furthermore, a woman, by the natural constitution of her body, may be less able to resist fear than a man; therefore, less fear may suffice to overcome her steadfastness, ibid. Persuasion and importunate insistence, combined with reverential fear, are sufficient to demonstrate that the freedom necessary for a valid marriage has been violated, especially in the case of women, ibid. After the Council of Trent, a marriage contracted under fear is not validated, even if the fear is removed by cohabitation and by carnal intercourse; but it is necessary to contract again before the Parish Priest and witnesses, according to the form prescribed in chapter 1, session 24, concerning reforms of marriage, if there is a public impediment, ibid. Without the Tridentine form, however, marriage can be validated if the impediment is hidden, provided that the two parties concur, namely, with knowledge of the nullity, and with a peaceful and spontaneous cohabitation, or intercourse, with marital affection, p. 422. Therefore, marriage suffers from nullity due to lack of consent, and has not been validly ratified, and no length of time, or children born from it, presents an obstacle to the declaration of such nullity by the Apostolic See, ibid.

[*Latin ed. p. 665*]

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Legitimate offspring is considered to be born from an invalid marriage, provided that it takes place in the sight of the Church and in good faith, on the part of at least one of the contracting parties, even if the other spouse knew of an impediment before the marriage or its consummation, ibid. The force of marriage concerning dispensation. The consummation of marriage can be rightly denied through the sworn testimony of both spouses and the confession of a seventh witness; and the proof is strengthened to the extent that an examination of the woman's body confirms her virginity, page 629.

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The confessions of the spouses and witnesses, supported by oath, provide moral certainty: but the examination of the woman's body provides physical certainty regarding the lack of consummation of the marriage, ibid. Marriage cannot be said to be consummated, according to the opinion of the Canonists and experts, unless the hymen is broken, and the fertile fluid is deposited in the woman's vagina; otherwise, if it is deposited outside the vessel, with the hymen remaining intact, ibid. Nevertheless, in several cases, the Sacred Congregation for Matrimony has granted a dispensation from a valid but unconsummated marriage, even if the hymen was found to be torn in some part, ibid. Although the existence of the hymen, according to some medical experts, cannot in every case be considered an indication of virginity, because sometimes conception can occur with an intact hymen, it is generally the case that a woman's integrity is demonstrated by the presence of the hymen, which is called the seal of virginity, page 630. Therefore, the difference between a complete coitus (through which the spouses become one flesh, through the mixture of sexes) and an incomplete coitus seems to lie in this: that in the latter, the emission of semen within the woman's vagina is lacking, prevented by the presence of the hymen, ibid. Among the causes for which a dispensation from a valid marriage is permissible, are the danger of incontinence, alienation of affections, and doubt of impotence; and if these are presented to obtain the grace of a dispensation, they do not require certain proof, but rather proof that is so probable that the Most Holy Pope can consider it true, ibid. Mass concerning application. All pastors are bound to apply the Mass for the benefit of the people, not only for all Sundays, but also for other days that are still observed by precept, and also for those who, through the indulgence of the Apostolic See, have been removed from and transferred from the number of days of obligation. page 518; The Roman Pontiffs, as the supreme legislators of the Church, have the power, through a privilege granted to someone, to derogate from common law, and the same privilege, however ancient it may be,

[*Latin ed. p. 666*]

INDEX 666 GENERALIS. Concerning the invalidation [of the decree]; for just as authority requires, it suffices for that supreme power to bind any priest to celebrate only one Mass on a given day, because the priest has only one duty, and is subject to its law; thus, Christ, having suffered once, redeemed the entire world. It is not a small thing to celebrate one Mass, and it is very beneficial. It is fortunate for him who can bear the burden of celebrating one Mass worthily. Alexander II, Canon. 8, dist. 1, page 236. However, there is a great difference between the possession of a certain piece of land, and the necessity that arises so that the sanction regarding the celebration of only one Mass may be relaxed, and the burden of Masses inherent in that [decree]; in each day, this must be considered and examined

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by the Ordinaries, whose conscience is burdened; so that it is not permitted for a priest to celebrate two Masses, as if it were a privilege, but rather, the authority of the Church must yield. 451. For the burden of Masses is not inherent in the possession of a piece of land, but in the fruits of that land itself, and must be observed perpetually, just as perpetual are the fruits of a bequeathed land, page 452. From the nature of the thing, even innocent parishioners can be removed by the testator; so that if a bequest is made, by its very nature productive, it remains that the perpetuity of the bequest can be argued, and everything spiritual derived from it or offered by it, page 568. Thus, when parishioners, who are infected with some crime, are justly punished by removal from the parish; but innocent parishioners are punished with the celebration of two Masses without guilt, but not without cause, for example, a leper priest, who is removed from office. The doubling of Masses is only permitted in cases of necessity; when the Christian people, and even the Church itself, would suffer damage; and such a necessity does not excuse them from their residence, nor is it proven how often the good of the spiritual welfare of the faithful is called into question. Thus, if the good of the faithful cannot be obtained without it, then, for just and reasonable causes, they may obtain a perpetual dispensation from residing there, page 235, chapter 2, from the Council of Trent, Session 6.

[*Latin ed. p. 667*]

INDEX GENERALIS.

Beneficia quae sunt ad obtinendum vel permutandum beneficium, sunt ea quae inducuntur ut, prospiciens bonum animarum, liceat agere, pagina 569. Remotio ab parochia potest esse temporanea, dummodo possit praeveniri, ut inimicitiae non sint diutius duraturae; in tali casu, consulitur bono animarum per idoneum Vicarium, ibidem.

Parochia: Quoad absentiam. Temporanea absentia ab parochia aliquando conceditur ab Apostolica Sede: quia expediet quandoque legem relaxare, ut plenius eveniant casibus et necessitatibus pro communi utilitate, pagina 364. Etenim quamquam sacri canones ab omnibus indistincte atque exacte observari debent, tamen eorum rigor solet temperari, si urgens iustaque ratio et maior quandoque utilitas, id exposcere videntur, ibidem.

Parochia: Quoad dismembrationem. Auctus nimis populi numerus, et distantia a parochiali Ecclesia, sunt praecipuae ex iure canonum causae, dismembrationis concedendae, pagina 292. Praesertim dismembratio locum habet, cum ostendatur in facto nihil deesse erigendae Ecclesiae, nihil antiquae deperire, pagina 293.

Erigendae Ecclesiae nihil deesse intelligitur cum omnia parata habeat, ut saeculari curae inserviat, et congrua dote ad eumdem finem fuerit ditata,

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ibidem. Antiquae Ecclesiae nihil deperire dici potest, si post dismembrationem ad eumdem statum redeat, in quo erat antequam populi augmentum inciperet, ibidem.

Vicariorum seu capellanorum ministerium, raro, prudenter, ac non sine delectu admitti debet, nam ratio decidendi in huiusmodi quaestionibus est haurienda ex facti circumstantiis, cum distinctione casus a casu, ibidem.

In novarum paroeciarum concessione, saeculares presbyteri sunt praeferendi, et nonnisi urgente necessitate et obtenta Pontificia dispensatione, regulares ad paroecias regendas admittuntur, ibidem.

Dispensationis obtinendae causae recensentur, Episcopi suffragium et presbyterorum saecularium defectus, ibidem. Verum si saecularium presbyterorum defectus haud existat, regulares cum saecularium detrimento imponi sunt providendi, ibidem.

Parochia: Quoad privationem. Concubinatos privari suis posse beneficiis per iudicis sententiam, nemo ambigit; cum Concilium Tridentinum constituerit: «postquam praemoniti sint (huiusmodi concubinarii) coerceant (Episcopi) et castigent; et si adhuc incorrigibiles in sua nequitia perseverent, eos beneficiis...»

[*Latin ed. p. 668*]

668 INDEX GENERALIS. cap. 6, de privando facultatem, p. 248. habeant sess. 21. Patrimonium sacrum, ex Tridentino Sess. 22, cap. 2, de ref. Beneficium Ecclesiasticum, habetur ut potissima ordinationis causa; ideoque ad sacros ordines nemo admitti potest nisi prius legitime constet, eum beneficium ecclesiasticum, quod sibi ad victum honeste sufficiat, pacifice possidere. p. 575. Sancitum quoque fuit ab eodem Tridentino, ut pensiones et patrimonia, faciliorem ad ordines obtinendos sternerent viam, quatenus Ecclesiae necessitas et commodum id quaererent; qua in re prudens Episcopi timoratumque iudicium versari debebit, ibid. Bona autem, quibus sacrum patrimonium confici potest, esse debent certa, stabilia et fructuosa, quae clerico ad vitam sustinendam sufficiant, p. 576. Proindeque pluries decisum fuit a s. G. Concilii, s. patrimonium haud confici ex eo quod quis retrahat ex propria industria et honesto labore, neque ex bonis mobilibus aut moventibus, ibid. Attamen legum canonicarum rigor aliquando relaxatur a pia Matre Ecclesia, quoties praesto sit aliqua iusta causa, ut esset locorum paupertas, Ecclesiae necessitas, et utilitas, ibid. Hinc, praeter Ordines religiosos mendicantium, qui titulo paupertatis ordinantur, innumera prostant dispensationum exempla, ut ad ss. Ordines promoveantur clerici, absque sacro patrimonio; quoties nempe huiusmodi suaserint dispensationes, tum necessitas, tum Ecclesiae utilitas, ibid. Pensio ecclesiastica Romani Pontifices imponere possunt pensiones temporales aut perpetuas quibuslibet beneficiis, tum activo tum passivo patronatu obnoxiis: quia in beneficialibus supremo potiuntur iure, ita ut frustra de illorum potestate dubitaretur, si de

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eorumdem voluntate constet. p. 78. Etsi contra sacros canones sit, coniugatus pensionibus frui ecclesiasticis, quae si beneficia non sunt, loco beneficii habentur, tamen dispensatio quoad hoc haud R. Pontificis auctoritatem excedit, ibid. Romani Pontifices auctoritate pollent pensiones imponendi super beneficia, si iusta atque honesta adsit causa, e x . g r . ob aequitatem et compensationem, quandam, insignem Clerici in Ecclesiam meritum, excellentem virtutem, summam doctrinae peritiam, senectutem, aegritudinem vel aliam piam causam, p. 426. Pensiones ecclesiasticae quae etiam parochiali beneficio impositae ex Apostolica auctoritate fuerunt, rependi omnino debent, quatenus sancta tecta maneat ex decreto.

[*Latin ed. p. 669*]

INDEX G. Concerning parochial rights, those pertaining to a parish with one hundred souls, see ibid. Pensioners, to whom the exclusive right to receive pensions has been granted, may send a petition: for everyone is free to renounce their right, unless the case is where the pension, by Apostolic authority, takes the place of sacred patrimony, or if the pensioner has been promoted to the sacred Orders by that title, see ibid. Regarding renunciations of Regulars. From the 16th chapter, 25th session of the Council of Trent, concerning Regulars, renunciations and donations made by novices, within two months prior to their profession, are null. page 528. IERALIS. 669. A decree of the Holy Father himself, then, deserves a clear interpretation, and the concession must be understood as a proper benefice granted by the Prince, with certain knowledge of the matter: it is fitting that the concession of the benefice should remain according to canon 16 of the law. page 78. Res Judicata. A judgment, once it has passed into the realm of res judicata, cannot be otherwise judged or overturned, except by restitution in integrum; and the judgment itself has, in the meantime, a presumption of validity and an implicit status of validity. page 451. The novitiate, from the day of the religious's reception, is counted, see ibid. Seminary. Concerning designated donations. Donations or renunciations that take place before entry into the religious life, but with a view to that very entry, are not considered to have effect, unless they are made after the donor's profession, see ibid. From the 23rd session, chapter 18 of the Council of Trent, concerning the spiritual and temporal administration of seminaries, six individuals are designated, see page 495. For the spiritual administration of these seminaries, two priors must be chosen by the Bishops, according to the Council of Trent: each Bishop, with the advice of two senior and more distinguished canons, whom they themselves have chosen, as the Holy Spirit suggests, see ibid. These principles cannot be applied in the case where the donation is made not to an existing monastery, but to one that is being established, and in such a way that the Pope has placed it as a condition for the establishment of the new religious house, see ibid. Rescript. Although rescripts and privileges are to be interpreted in a way that

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exceeds the strict letter of the law, nevertheless, if the words are clear, or if they have been granted with a specific intention, then... For the temporal administration of the seminary, four individuals are to be chosen, two from the Chapter, and two from the clergy of the city: of the two to be chosen from the Chapter, one is chosen by the Bishop, and the other by the Chapter itself; of the two to be chosen from the clergy...

[*Latin ed. p. 670*]

INDEX 670 GENERALIS. In civitatum administratione, unus Episcopus eligitur, alterum autem clero ipso. p. 496. Sex hujusmodi deputati, designati ad administrationem spiritualem et temporalem seminariorum, perpetui esse debent, et sine iusta causa non possunt amoveri; consilium eorum ab Episcopis requiri debet, quamvis ad idem sequendum non teneantur, ibidem. Iuxta communem sententiam, alter ex deputatis assumendis e clero civitatis, eligendus est non a solo clero civitatis; nam vox ipsa "clerus" a Concilio Tridentino adhibita, totius Dioecesis clerum perspicue videtur innuere, ibidem. Statio Viae Crucis: Non requiritur consensus Parochi in scriptis redactum, pro erectione Stationum Viae Crucis; ideoque in posterum valide et absque ulla ambiguitate, erigi possunt Viae Crucis Stationes ab auctoritate pollentibus, inaudito Parocho, p. 122. Sub poena nullitatis tamen, consensus Ordinarii requiritur pro singulis casibus, et pro unaquaque Stationum erectione; neque ullo modo sufficit, ut putabatur, eiusdem consensus generice praestitus, pro erigendis Stationibus in certo numero Ecclesiarum, sed requiritur specifica loci designatio, ibidem. Pro validitate benedictionis Stationum Viae Crucis, haud requiritur, ut benedictio detur ante ipsarum affixionem, sed sufficit ut post affixionem earumdem fiat, p. 125. Ideoque, benedictio valida atque efficax habenda esse videtur, sive ante, sive post earumdem erectionem impertiri velit, p. 126. Pro Viae Crucis erectione, non possunt benedici tabulae et picturae, sed benedictio cohibenda est ad cruces solummodo, ibidem. Transactio: Transactio super re clara exsistere non potest, quia fundamentum transactionis est dubietas vel facti vel iuris, p. 528. Utensilia: Reductiones perpetuae onerum Missarum secumferunt proportionalem taxae sacrorum utensilium reductionem, p. 297. Varia fuit praxis pro varietate temporum, quoad taxam sacrorum utensilium; decima vero libellae pars nunc constituitur a S. Congregatione Visitationis Apostolicae in decretis fundationis, pro qualibet Missa quotidiana celebranda, ibidem. Vicarius Paroeciae: Remediis possessoriis uti non possunt vicarii et capellani ad numen amovibiles, quippe qui neque titulum, neque veram possessionem, sed meram habent deputationem, p. 282. Ille, qui inamovibilem vicariam aut capellaniam consequitur, potest...

[*Latin ed. p. 671*]

INDEX: G: Concerning the notification of the right to immovability, it is

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stated that this, however, does not in any way alter the nature of a vicarage or chaplaincy, page 283. ERAL, p. 671: Hence, just as perpetual vicars, exercising actual care, are perpetual in the same way as habitual rectors, and cannot be removed by them, so too, even with the established right to removability, a chaplain or vicar cannot be removed without a just and reasonable cause, even if of small importance; and the solemn procedures that must be observed when removing any titular and immovable beneficiary are waived, ibid. Regarding the perpetual holding of a benefice, the Ordinary has, as it is said, the intention founded in law to grant the institution to perpetual vicars; therefore, although such a right can be acquired by ecclesiastical persons, monasteries, chapters, etc., unless otherwise clearly proven, the institution is always to be granted by the Ordinary, ibid. A perpetually instituted vicar is truly a beneficiary, according to chapter 27 concerning Rescripts: "For it should not be said that one lacks a benefice to whom competent provision has been made from the revenues of a perpetual vicarage:" therefore, he cannot be removed unless he commits a fault worthy of deposition or deprivation of the benefice, p. 286. Perpetual vicars are entirely equivalent to parochial benefices, with regard to the vacancies of parishes through the reception of others, with regard to the time when rectors should be promoted to the priesthood, and with regard to the age established by law, so that they may acquire parishes, ibid. They differ from parish priests in this, that they are not to be instituted as such, as are the habitual rectors, after they have been examined and approved by the Bishop, ibid. Solemn Vow: According to the opinion of DD., a solemn vow consists of a promise, simultaneously and absolutely and irrevocably made, and a reciprocal acceptance made by one having legitimate authority, page 87. Since the act of an agent is only valid to the extent that the agent intends it to be valid, it must be said that he who intends to pronounce solemn vows in a religious profession is either doing nothing, or is truly making solemn vows, both in themselves, and with regard to their effects, internally and externally, ibid. Religious who pronounce solemn vows in an approved religious order can be promoted by the Bishop to the sacred orders for the title of "pauper" (poor), without an ecclesiastical benefice or sacred patrimony, ibid.

[*Latin ed. p. 672*]

ERRATA Page > > > > > > > > > > > > > > CORRECT: The following requires correction:

26 line 27: *requirere* should be *abseissa*

4, 31: *ad scissa sedes* should be *ad scissa sedes*

249, 30: *sediae* should be *sediae*

341 > 12: *adempia, quodammodo adempia quodammodo*

343 > 26: *prolatas* should be *prolatae*

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346, 11: *subiectum* should be *subiectam*

348, 11: *confessarium, ipsum confessarium ipsum*

359, 9: *susceperint* should be *satisfecerint*

360, 27: *corruptelas* should be *corruptelae*

395, 24: *aecipit* should be *accidit*

396, 2: *vinculum* should be *vinculo*

399, 41: *consocietur* should be *consocientur*

19, 406: *consensus* should be *consensum*

412, 32: *de audito* should be *de auditu*

419, 14: *ita ut aliquando ita ut aliquando obstu prata in fornica* should be *obstu pratam tione tanto tempore permansisset.*

420, 15:

421, 4: *validitate* should be *invaliditate*

421, 11: *infensam puellae voluntatem* should be *infensa puellae voluntas*

424, 27: *passivi positivi*

460, 23: *facultatem* should be *facilitatem*

467, 2, column 1: *ex eiusdem ex rubricis eiusdem* should be *sacello*

484, 16, column 2: *saeculo*

486, 38: *redonaretur* should be *redonetur*

486, 37: *indignius* should be *indignus*

503, 20: *Iulius Canonicus* should be *Iulius G. Canonicus*

504, 2: *possessione* should be *possessionem*

511, 5: *intervenit*

511, 15: *invenit*

512, 21: *reperiri* should be *requiri*

512, 21: *ut supra*

527, 35: *est supra*

540, 2, column 2: *est ne crux processionalis an est ne crux processionalis ante Episcopum deferenda ab initio functionis, an tantummodo tantummodo commemorandas commemorandis*

546, 27: *congruo*

574, 19: *congrua*

576, 16: *praeferre*

584, 29, column 2: *concilians* should be *conciliaris*

595, 37, column 1: *quum autem*

595, 1, column 1: *quid autem*

IMPRIMATUR: Fr. Raphael Salini, Ord. Praed. S. P. A. p. Mag. Soc.

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